

# Legislative Analysis



## REVISIONS TO JURY POOL SELECTION PROCESS

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**House Bill 4859 (Substitute H-3)**  
**Sponsor: Rep. George Cushingberry**

**House Bill 4934 with committee amendment**  
**Sponsor: Rep. LaMar Lemmons, Jr.**  
**Committee: Judiciary**

**Complete to 6-10-08**

## A SUMMARY OF HOUSE BILLS 4859 AND 4934 AS REPORTED FROM COMMITTEE 6-4-08

The bills would revise the current jury selection process. The bills are tie-barred to each other, meaning that neither could take effect unless both are enacted.

House Bill 4859 would amend the Revised Judicature Act (MCL 600.1304 et al.) to include registered voters and taxpayers in the jury pool and to provide for more diversity in the pool. First, the bill would place the operations of the jury board in each county under the oversight of the circuit court with jurisdiction over that county. Prior approval of the court would be needed before a jury board could enter into a contract for equipment or services. The jury board would have to report annually to the court on the geographical diversity of juries selected in that county during the preceding 12 months.

The jury board would also have to continue to reorder the first jury list so that names of persons residing in each postal zip code within a county would be represented in jury pools selected in that county in proportion to that postal zip code's percentage of the county's total population, as reflected in the most recent federal decennial census.

Jury pool. Currently, the jury board selects names of persons to serve as jurors from a list that combines the names of people holding a driver's license or state ID card. The bill would require the list to also include current voter registration lists or books and individuals who had filed a state income tax return.

Voter lists. Under the bill, between April 15 and May 1 of each year, the township or city clerk would have to deliver to the county clerk a full, current, and accurate copy of the voter registration lists of the names and addresses of the current registered voters.

The county clerk would have to provide the jury board with copies of the current voter registration lists for each precinct in the county, with voters grouped either by precinct or by city, township, or village. If the clerks of a municipality used electronic or mechanical devices to carry out their duties, the jury board—instead of receiving a list of current registered voters from the county clerk—could order the local clerks to provide the

names and addresses selected by applying the key number and starting number designated by the board.

Tax lists. Between April 15 and May 1 of each year, the state treasurer would have to transmit annually to the clerk of each county at no expense a full, current, and accurate copy of a list of the names and addresses of all individuals residing in that county who filed a state income tax return for the preceding calendar year. At the request of a jury board before March 1, the state treasurer would have to transmit only a list that consisted of the names and addresses of those persons selected at random, based on the total number of jurors required as submitted to the state treasurer by the board, using electric or other mechanical devices. If the county used electronic or mechanical devices to carry out its duties, the county could request and receive a copy of the list on any electronically produced medium under specifications prescribed by the state treasurer. The state treasurer would have to establish specifications standardizing the size, format, and content of media utilized to transmit information used for jury selection.

Geographical diversity. Currently, the names of persons on the first jury list who are qualified for and not exempt from jury service are compiled into a list known as the second jury list. The jury board is required to make an additional list from the names on the second jury list segregated by the geographical area of the jurisdiction of each district court district. When there are not sufficient names on the segregated list for any district court district, the jury board is required to apply again the key number to that district only and obtain as many additional jurors as needed for that district.

Under the bill, after the above task was completed, the board would have to make an additional list consisting of these names segregated by geographical areas within the county. If there was not sufficient geographical diversity within the segregated list, the jury board would have to again apply the key number to any underrepresented geographical area and obtain as many additional jurors as needed to ensure geographical diversity. "Geographical diversity" would mean the proportional representation of the population of each postal zip code within the county as a percentage of the total population of the county, as reflected in the most recent federal decennial census.

House Bill 4934 would amend the Revenue Act (Public Act 122 of 1941, at MCL 205.28) to allow the state treasurer to disclose the names and addresses of taxpayers to the extent required under Section 1310b of the Revised Judicature Act. Section 1310b would be added by House Bill 4859.

## **FISCAL IMPACT:**

House Bill 4934 would have no fiscal impact on the judiciary system and an indeterminate fiscal impact on the Department of Treasury.

To the extent that House Bill 4859 increases the administrative workload of local jury boards, the bill may increase costs to county governments. Depending upon the county's size, the local county jury board is appointed by either the county executive with the

concurrence of the county board of commissioners or by the county board of commissioners. The members of the jury board and their staff receive compensation from the county. Any fiscal impact to counties would be related to increased administrative workload to county jury boards that might arise under the bill's provisions.

The bill may have a minimal fiscal impact on local governments from the bill's requirement that local clerks annually provide the county clerk copies of voter lists.

Regarding the judiciary, the change in oversight to the Circuit Court would have an indeterminate impact on the judiciary. To the extent that the bill increases the workload of the local circuit court, there may be increased costs to the circuit courts.

Further, jurors are required to be compensated for mileage at a rate that is not less than 10 cents per mile (See MCL 600.1344). Despite a statutory floor rate for juror mileage compensation, many funding units elect to reimburse jurors at a mileage rate higher than the minimum. Regardless of what the local funding units compensate the juror for travel mileage, the JCRF provides no funding for mileage reimbursement. The following chart presents a breakdown of the current funding costs at the rate of 10 cents per mile and costs at the proposed new rate of 22 cents per mile for the FY 2004 through FY 2007:

<b>Fiscal Year</b>	<b>Mileage</b>	<b>10 cents per mile rate</b>	<b>22 cents per mile rate</b>	<b>Cost of Rate Increase</b>
<b>FY 2007</b>	8,620,388	\$862,038.80	\$1,896,485.36	<b>\$1,034,446.56</b>
<b>FY 2006</b>	8,793,121	879,312.10	1,934,486.62	<b>1,055,174.52</b>
<b>FY 2005</b>	8,614,254	861,425.40	1,895,135.88	<b>1,033,710.48</b>
<b>FY 2004</b>	8,595,699	859,569.90	1,891,053.78	<b>1,031,483.88</b>

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As displayed in the chart above, increasing the statutory floor for juror mileage compensation would lead to an average cost increase for the state of \$1,038,703.86 per fiscal year. Although local funding units do not currently receive any state reimbursement for juror mileage compensation, the state would be required to reimburse the local funding units for a statutorily mandated increase in juror mileage compensation pursuant to Article IX, Section 29 of the Michigan Constitution of 1963.

## **BACKGROUND INFORMATION:**

Under current law, a jury pool is drawn from a list of names of state residents with driver's licenses or state personal identification cards. The current system replaced an older practice of drawing juries from voter registration lists. It was thought that whereas not all people voted or voted regularly, most adult residents would have either a driver's license or a state ID card, and that these forms of identity would be more likely to have updated address changes. Using those lists to draw names was believed to result in diverse juries reflecting a county's demographics. For various reasons, critics say, that hasn't happened and around the state, and juries have not been representative of the area's population. The problem is said to be especially acute in Detroit.

The bills are an attempt to bring greater diversity to jury pools. Under House Bill 4859, the names of currently registered voters and tax filers would be merged with the names of those with state driver's licenses and personal ID cards. Supporters believe that this will capture a greater number of eligible jurors. The bill would also require the jury board to identify any underrepresented areas of the district and to draw a sufficient number from jurors living in the underrepresented area to ensure geographical diversity. It is hoped that this provision would correct a common occurrence in some metro areas, especially Detroit, where critics say that few on juries are from the city in which the crime occurred and more are from surrounding suburban areas. Those testifying in support of the bills maintain that having greater diversity among jurors and geographic diversity would go a long way in improving the delivery and appearance of justice in both criminal and civic cases.

The bill would also increase the minimum reimbursement for mileage for a juror from 10 cents to 22 cents. Apparently, some potential jurors may not return a jury questionnaire because the cost to travel to the courthouse, along with other related costs such as parking and child care, is prohibitive. Even providing a small increase in the mileage reimbursement may help offset the cost of gas or bus fares and thus encourage more to fulfill their civic duty.

Others feel that the bills are not the right approach. The problem, detractors of the legislation say, is not that the current use of names from the Secretary of State does not provide a diverse pool of potential jurors, but that some populations within the pool tend not to return the jury questionnaire. The questionnaires provide important information as to the eligibility or ability of the person to be on a jury; for instance, a person responding that he or she has a felony conviction must be excluded from further consideration and persons older than 70 years of age may opt out of jury service. If the problem can be traced to failure to return the questionnaires, than some feel the answer lies in greater efforts to educate the public as to the importance of jury duty and potential penalties for failing to return a questionnaire, as well as greater enforcement efforts on the part of local officials.

Muskegon County recently hired a full-time jury clerk to improve the responses to the questionnaires. News reports reveal that in 2006, the response rate was only 53.5 percent; the return rate in certain zip codes was even lower. After hiring the jury clerk, the return rate of the questionnaires mailed out in 2007 climbed to almost 83 percent; two zip codes with the lowest return rates had double digit increases in the number of responses. This was accomplished by the clerk using a variety of means to double check the accuracy of addresses coupled with mailing out second notices and stressing that a response was mandatory.

Where supporters of the legislation believe that merging the lists of tax filers and registered voters with those currently supplied by the Secretary of State will provide current addresses, opponents of the measure believe that this would result in a list with many duplications that would be difficult to sort out (despite the belief of supporters that software applications should be able to sort out duplicative names). Opponents maintain

that even the best computer programs cannot determine if the Mary Smith that recently registered to vote at one address is the Mary A. Smith on the Secretary of State list with a different address.

**POSITIONS:**

The State Bar of Michigan supports the bills. (6-4-08)

The NAACP supports House Bill 4859. (6-4-08)

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■ 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.