

Statement on the Judicial Budget – Juror Compensation Reimbursement Fund

The **Juror Compensation Reimbursement Fund** was created by **2002 PA 740** (EHB 4551), eff. Jan. 1, 2003, MCL 600.151d, to reimburse counties primarily (but also cities and townships that fund the local District Court) to cover the expense incurred by the juror per diem increase above pre-2003 rates (\$15/day, 10 cents per mile, in effect since the 1960's) by a companion bill, **2002 PA 739** (ESB 1448), eff. Oct. 1, 2003, MCL 600.1344. The mechanism for reimbursing court funding units is provided in MCL 600.151e, enacted as part of the same package, **2002 PA 742** (EHB 4553), eff Oct. 1, 2003.

The primary funding source was revenue from the clearance fee paid to the Secretary of State when a motorist resolved outstanding traffic civil infraction actions for which the motorist failed to appear or pay financial sanctions (primarily civil fine and costs). MCL 257.321a, **per 2002 PA 741** (EHB 4552), eff Jan. 1, 2003. A lesser source was an increase in the civil jury demand fee, MCL 600.2529 & 600.8371, per **2002 PA 605** (ESB 1452), eff Jan. 1, 2003.

The JCRF was viewed as a “Headlee” fund and surely was politically required as the sine qua non for counties to not oppose the juror comp increase – and counties in particular are likely to assert Headlee “mandated cost” if reimbursement funding for the juror compensation increase is eliminated or reduced below full reimbursement.

Following the advice of SCAO – that it took about 3 years for increased fees to produce the projected level of revenue – the juror comp package was structured to ensure a good faith effort to fully reimburse court funding units from the very beginning by:

Assuming a high estimate of cost.

Assuming a low estimate of revenue.

Collecting the revenue nine months before the increase juror per diem took effect.

Commitment by the Legislature in 2002 to full reimbursement was constant until last Session.

Between October 1, 2003, and April 1, 2018, the per diem rate was \$25/day for first day and \$40/day for subsequent days. Those rates were raised by **2017 PA 51** (EHB 4209), to \$30/day and \$45/day respectively and mileage to 20 cents/mile since 4/1/2018. See **MCL 600.1344**.

From the beginning the JCRF fully reimbursed funding units for the increased juror per diem. But the JCRF accumulated a surplus that SCAO kept silent about until 2004, when that surplus for the first time was used to balance the judicial budget. Since then, the JCRF surplus – rather than raise the mileage rate – has been raided five times to balance the judicial budget:

(3) For the state fiscal year ending September 30, 2005 only, \$4,000,000.00 of the unencumbered balance remaining in the fund at the end of that fiscal year must be transferred by the state treasurer to the general fund.

(4) For the state fiscal year ending September 30, 2008 only, \$2,250,000.00 of the unencumbered balance remaining in the fund at the end of that fiscal year must be transferred by the state treasurer to the general fund.

(5) For the state fiscal year ending September 30, 2010 only, \$1,352,100.00 of the unencumbered balance remaining in the fund at the end of that fiscal year must be transferred by the state treasurer to the court equity fund created in section 151b.

(6) For the state fiscal year ending September 30, 2011 only, \$2,607,500.00 of the unencumbered balance remaining in the fund at the end of that fiscal year must be transferred by the state treasurer to the court equity fund created in section 151b.

(7) For the state fiscal year ending September 30, 2020 only, \$2,500,000.00 of the unencumbered balance remaining in the fund at the end of that fiscal year must be transferred by the state treasurer to the general fund.

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The fifth time was in 2017, per **2017 PA 52** (EHB 4210), eff Sep 13, 2017: **MCL 600.151e** was amended to cover an SCAO FTE and authorized SCAO to allocate funds from the JCRF “to enter into a contract with a jury management software vendor to provide software and ongoing support and maintenance to all state trial courts.” (Emphasis added.) Thus, the Supreme Court, with full complicity of the Legislature, figured out a way to redirect restricted revenue created for the sole purpose to fund increased juror compensation to cover its own budget needs. Five times – so far.

BUT, under **2020 PA 376** (EHB 5846), eff Oct. 1. 2021, the legislation to eliminate the driver’s license suspension for traffic civil infractions – as well as MIPs, SCIs, and certain unpaid parking – also eliminates the clearance fee of \$45 associated with removing the SOS suspension and thus the **corresponding revenue** that now is the primary source of money for the **JCRF**.

Will that fund now run down so that full reimbursement for juror comp will end? YES.

The JCRF by the end of FY 2018-19 had accumulated a carry-over balance of \$15.6 million – from which \$2.5 million was then used to balance the overall state FY 2019-20 budget. Based on available data, the JCRF balance at the end of FY 2020-21 will be \$10 million, For **FY 2023-24**, the carry-over balance from FY 2022-23, significantly reduced revenue (end to clearance fee revenue), and projected expenditures for juror comp will not allow full reimbursement to counties, cities, and townships for the juror compensation they will pay out. **Then what?**

Therefore, the following questions are worth exploring with the Chief Justice and SCAO:

Q to ask: Does the Supreme Court and/or SCAO have a plan for a depleted JCRF?

Q to ask: Will counties and cities only receive partial (pro-rated) reimbursement if the fund is depleted by FY 2023-24 below the amount required for full reimbursement?

Q to ask: Will counties and cities continue to pay current rates if they receive reimbursement for only a fraction of their juror comp expense after FY 2023-24? [Perhaps 22% based on estimated revenue of \$0.91 million and estimated expenditures of \$4.06 million.]

Q to ask: Will counties stop paying jurors the current statutory rate because they will not be reimbursed and so revert to pre-2003 levels [\$15/day (1.875/hr.) and 10 cents/mile]?

Q to ask: Will the Supreme Court plan to use other Judicial appropriations to make up any shortfall, or seek direct GF/GP or some other replacement funds to supplant the shortfall?

Q to ask: **Will SCAO at least forego** use of the JCRF to pay for an **SCAO FTE** and a **contract** for a jury management software **vendor** to lessen the drain on the JCRF? (See MCL 600.151e(2) and (3), per 2017 PA 52, HB 4210.) [The JCRF was not established to pay for either!]

Qs to ask: **What is the status of that vendor contract? How much did the contract cost? Is it still in effect? What is the annual expense for it? Have any savings been realized?**

Qs to ask: Why did the Supreme Court allow the JCRF to accumulate a balance of nearly \$16 million without informing the Legislature during annual budget consideration or suggesting additional support for jurors, like parking (in Detroit)? Has the Court allowed that accumulation as a safety net against Judicial budget cuts? Note that on 4 occasions a surplus in the JCRF was used to balance the Supreme Court budget instead of increasing juror comp or mileage – and per HB 6122, 2020 PA 172, eff 10/1/2020, that state used it to balance the state’s FY 2019-20 budget. See **MCL 600.151d** for the full history of the use of JCRF surplus.

Respectfully,

Bruce A. Timmons