



CENTRAL OFFICE:
17 North Front Street, Harrisburg, PA 17101-1624
PH. 717-232-7554 FAX 717-232-2162

NORTH OFFICE:
P.O. Box 60769, Harrisburg, PA 17106-0769
PH. 717-526-1010 FAX 717-526-1020

TESTIMONY ON HOUSE BILL 601 AND HOUSE BILL 1356

**Before the
HOUSE JUDICIARY COMMITTEE
SUBCOMMITTEE ON COURTS**

**Presented By
Douglas E. Hill, Executive Director**

**May 20, 2008
Harrisburg**

Good morning. I am Douglas E. Hill, Executive Director of the County Commissioners Association of Pennsylvania. The CCAP is a non-profit, non-partisan association providing legislative, educational, insurance, research, technology, and similar services on behalf of all of the Commonwealth's 67 counties.

We appreciate the opportunity to appear before you today to offer our comments on HB 601 and HB 1356, which increase the reimbursement to those called to jury duty.

The right for a defendant to be heard by his or her peers is one of the mainstays of criminal justice in our democratic system. Participating on a jury is a necessary, and hence compulsory, element of community and civic engagement.

Counties understand that it has become more and more difficult, financially and otherwise, for citizens to take time away from their jobs to participate on a jury. We understand as well that it has been a considerable period of time since the compensation levels were increased. It might be said that the current compensation is not compensation but rather is a de minimis payment granted in recognition of public service. Certainly it has been some time since it was able to be considered as having any equivalence to a daily wage.

That said, counties cannot support the concept of raising compensation to jurors without receiving either increased state reimbursement to cover these costs, or some local mechanism to avoid the tax increases that would be necessary at the county level if counties are forced to increase payments.

Under the current law, jurors are reimbursed \$9 per day for the first three days, and \$25 per day for each day thereafter. The Commonwealth reimburses counties 80% of the costs for service over three days, amounting to \$20 per day. In the typical county, a large pool reports at the beginning of the week, from which juries are selected; once the week's complement is filled, those remaining are dismissed. In this way, many of those required to report are dismissed early in the week, and are compensated at \$9, while those who sit for trials extend into the \$25 period. All jurors are paid 17 cents per mile for travel.

House Bill 601 simply would mandate a flat \$40 per day, regardless of the number of days, with no change in the state reimbursement or mileage. Under that bill, county costs would increase by \$31 for each of the first three days, and \$3 for each day after (the Commonwealth's reimbursement increases by \$12 per day). This bill compares to the \$40 per day that is currently paid to participants in multi-county investigating grand juries – which is fully reimbursed by the Commonwealth.

House Bill 1356 is a little more complicated. It increases the compensation to the minimum wage (although there may be a small technical problem with the language), reduces the Commonwealth reimbursement to 50% while extending it to the full time of service, and increases the mileage reimbursement to the IRS standard. The current minimum wage rate is \$5.85 per hour (\$46.80), increasing to \$6.55 effective July 24, 2008 (\$52.40) and \$7.25 effective July 24, 2009 (\$58.00). The current IRS mileage reimbursement is 50.5 cents.

Using the July 2008 figures, HB 1356 would amount to an increase of \$17.20 / county and \$26.20 / Commonwealth for each of the first three days, and \$21.20 / county and \$6.20 / Commonwealth for each day thereafter. Mileage would increase 8.25 cents / county and 25.25

cents / Commonwealth for mileage (the Commonwealth reimbursement also applies to mileage and is also extended to the first three days).

We regret that at this time we do not have the capacity to estimate the total increase in costs, for us or the Commonwealth, because each bill changes the split rate and because we do not have reliable statistics on the number of jurors called, the number dismissed early, or the number that serve beyond three days.

But the singular conclusion we can reach is that either bill will amount to a significant increase in costs, and to the extent these costs are not reimbursed by the Commonwealth, the burden will be placed on the county property tax payer.

This brings us to two additional points regarding juror compensation.

The first, as noted earlier, is that consideration should be given to the notion that we – the Commonwealth, the courts, the counties, the citizens – have come to accept the de minimis reimbursement as just that, a gesture of thanks that is not intended to be a compensation equivalent. If that is the case, perhaps there is merit to considering removal of other barriers in the system, including how jury service interacts with the leave policies of the private employers in the community.

The second is the larger context of court funding. The vast majority of funding for the local courts comes from the county budget, derived largely from the county property tax. In the 1987 case *County of Allegheny v. Commonwealth of PA*, the Pennsylvania Supreme Court ruled that a lower court system funded by 67 counties with disparate fiscal capacities created an inherently unequal system of justice, and that this Constitutional violation could be overcome only by the Commonwealth taking over funding and administration of the lower courts. The Court understood the scope of its order, allowing the 1987 county funding system to remain in place until the legislature had reasonable time to act.

A 1996 decision, based on a 1992 mandamus filing by our Association, resulted in a master's report outlining a four-part transition to Commonwealth assumption of funding and administration. Only the first phase, transfer of the court administrator and certain deputies to the Commonwealth payroll (Act 12 of 1999), has been completed to date.

We raise the matter to remind the General Assembly that an order of the Supreme Court remains to be fully addressed, and that in the context of today's hearing a case can be made that, consistent with the Court's direction, either bill should be amended to require full Commonwealth funding of all juror costs, as is the case with multicounty investigating grand juries.

Thank you for your consideration of these comments, and I will be pleased to answer your questions.