

# Comprehensive Jury Bill Awaits Senate Action

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SACRAMENTO — Comprehensive revision of laws affecting jury selection and management — including a provision to rescind last year's sharp reduction in jurors' per diem — passed the state Assembly last week.

The Trial Jury Selection and Management Act, AB 2617 by Assembly Judiciary Committee Chairman Elihu Harris, D-Oakland, represents years of work by a committee of the Association of Superior Court Executive Officers and Jury Commissioners, which pored over archaic, conflicting or duplicative statutes and recommended revisions. It goes to the Senate Rules Committee, which will assign it to another Senate committee.

"This bill has been in the process of being drafted for the last two years," said association president-elect Len LeTellier, the Contra Costa County jury commissioner and Superior Court executive officer who chaired the association committee that drafted the bill. "The intent is to consolidate all statutes having to do with jury selection and to [eliminate] code duplication by merging it into one code."

LeTellier said the measure is designed primarily to "clean up" statutory language and eliminate archaic provisions. Existing statutes, which in many cases have not been revised in decades, are replete with duplicative and outmoded language — including a 19th-century provision permitting court officials "to go out and pull jurors off the street if you really needed them."

"Basically, the law relating to jury management and selection is kind of a hodge-podge," said Ray LeBov, counsel to the Assembly Judiciary Committee. "It is not well organized, which is a function of having been enacted piecemeal over the years. This bill is an effort to codify and reorganize."

Current jury selection and management statutes are found in the Penal Code, the Government Code and the Code of Civil Procedure, often duplicating each other and creating confusion for jury commissioners, LeTellier said. He said revising the statutes proved to be "a bigger than task than we anticipated."

"We tried to make it non-controversial," he added.

But the bill has stirred some controversy and may face additional legislative hurdles in the Senate and from the governor because it reinstates a controversial reduction in juror per diem passed by the Legislature and signed by Gov. George



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**Elihu Harris**  
Judiciary Committee Chairman

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The provision was not originally a part of the omnibus jury-management bill, but was added after the draft was completed by the jury commissioners group.

Among its many provisions, AB 2617 would set juror per diem at \$10 to \$25. Last year's measure — which was part of the budget trailer bill, a catch-all technical measure used periodically to enact the state budget (a procedure since ruled illegal by the California Supreme Court) — slashed juror per diem to \$5 to \$10. It drew strong criticism from judges, court officials and jurors.

If juror compensation is returned to the \$10 minimum, according to a Judicial Council estimate, state costs for juror compensation would increase by approximately \$9.5 million annually.

Despite controversy over the per diem issue, LeTellier is optimistic about passage. "It emerged from the Assembly relatively unscathed," he said.

Passed by the Assembly Judiciary Committee, which is chaired by Harris, it was opposed in the Ways and Means Committee by that committee's chairman, Assemblyman John Vasconcellos, D-San Jose, because of the per diem aspect, which Vasconcellos said could cost between \$10 million and \$100 million.

Vasconcellos moved last week to amend the bill to eliminate the per diem increase as well as a requirement for free parking for jurors, but he was blocked by opposition from other legislators, and the bill was amended to its original form — a chain of events Harris described as reminiscent of "The Twilight Zone."

Harris told the Ways and Means Committee that the per diem changes represented "a constructive way" to encourage jury service and to discourage prospective jurors from using "economics as an excuse not to serve on a jury."

A Judiciary Committee analysis of the measure cites arguments that the existing level of juror compensation "is so inadequate that it is generally difficult and sometimes impossible to empanel truly

representative juries because large classes of persons are forced to seek hardship exemptions for economic reasons." The result, proponents contend, is "an unfair share of responsibility falling on a limited number of persons."

LeTellier said his organization would prefer "to stay out of the political aspect" of controversy over the bill. "We feel it's an important bill, and we don't want to jeopardize it," he said, adding that it might be necessary to amend the bill to remove the compensation aspect in order to ensure passage of the substantive jury-management provisions of the bill.

According to the Judiciary Committee analysis of the complex bill, AB 1617 "comprehensively revises the law relating to the selection of jurors and the formation of civil and criminal trial juries in all trial courts of the state." Its principal aim, according to the analysis, "is the reorganization and consolidation of all existing provisions relating to jury selection and management." The bill would:

- Eliminate categorical exemptions to jury service that currently apply to judges and specified classes of peace officers (a provision that earned the bill opposition from the Peace Officers Research Association of California).
- Increase compensation to trial jurors from a minimum of \$5 to \$10 a day.
- Prohibit a jury commissioner from "releasing, disclosing or providing access to any information gathered in connection with jury selection or service, except upon a judicial finding of good cause."
- Provide that any person who does not respond to a jury commissioner or court inquiry regarding qualifications and ability to serve may be ordered to appear.
- Unless excused for undue hardship, any summoned prospective juror "shall be available on one-hour notice by telephone to appear for service" when the commissioner determines that method

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will "efficiently serve the operational requirements of the court." Jurors "so available" would receive credit for each day of availability, but would not be paid unless they are actually required to make an appearance.

Regarding disclosure of juror selection information, the analysis notes that, in *Pantos v. City and County of San Francisco*, 151 Cal.App.3d 258 (1984), the court held that a court-compiled master list of qualified jurors, with names and

addresses, "is subject to public inspection and copying under the Public Records Act," and that the subsidiary "summons lists" used to summon panels are also subject to public inspection.

The court also held that jurors' questionnaires used to determine competence prior to compiling the master list are not open to the public and that the public interest in withholding them outweighs the public interest in disclosure.

The Peace Officers Research Associa-

tion opposes repeal of the exemption for certain peace officers, arguing that officers almost always are eliminated from a jury panel and thus "wind up wasting time sitting in the jury room while the department pays another officer time and a half to fill in." Proponents argue that jury service is an obligation that applies to all.

The Judicial Council supports the bill, but the California Judges Association has not yet taken a formal position.