

12-3-02

**MARIPOSA COUNTY
BOARD OF SUPERVISORS**

**AGENDA
ACTION FORM**

**DATE: 11/19/02
AGENDA ITEM NO.: #4**

DEPARTMENT: County Counsel

BY: Jeffrey G. Green

PHONE: 966-3222

CA-8

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes X No)

11/18) Waive first reading and introduce Ordinance 12/3) Waive second reading and adopt Ordinance amending Chapter 2.33 of the County Code.

Amendments have been made to Section 215 of the Code of Civil Procedure and Section 890 of the Penal Code, which affect Chapter 2.33 of the Mariposa County Code. Pursuant to Section 215 of the Code of Civil Procedure, the fee for jurors in the Courts is amended from five dollars (\$5) a day to fifteen dollars (\$15) a day for each days attendance as a juror after the first day. According to Section 890 of the Penal Code, effective July 1, 2002, fees for grand jurors are fifteen dollars (\$15) a day for each day's attendance as a grand juror, and the mileage reimbursement applicable was amended from twenty-five cents (25¢) to reimbursement at the current IRS mileage rate, as amended from time to time, traveled to and from the County Courthouse to attend court as a juror.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board adopted Section 2.33.010 in 1987 and last amended Section 2.33.020 in 1984.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

COSTS: (X) Not Applicable	
A. Budgeted current FY	\$ _____
B. Total anticipated costs	\$ _____
C. Required additional funding	\$ _____
D. Internal transfers	\$ _____
SOURCE: () 4/5ths Vote Required	
A. Unanticipated revenues	\$ _____
B. Reserve for contingencies	\$ _____
C. Source description:	_____
Balance in Reserve for Contingencies, if approved: \$	_____

SPECIAL INSTRUCTIONS:
List the attachments and number the pages consecutively:

Proposed Amended Ordinance. _____
Existing Ordinance _____

CLERK'S USE ONLY:

Res. No.: _____	Ord. No. <u>980</u>
Vote - Ayes: <u>5</u>	Noes: _____
Absent: _____	Abstained: _____
Approved ()	Denied ()
Minute Order Attached ()	No Action Necessary ()

ADMINISTRATIVE OFFICER'S RECOMMENDATION:
This item on agenda as:

_____ Recommended
_____ Not Recommended
_____ For Policy Determination
_____ Submitted with Comment
_____ Returned for Further Action

The foregoing instrument is a correct copy of the original on file in this office.
Date: _____
ATTEST: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California
By: _____
Deputy

Comment: Current IRS mileage reimbursement rate is .365

A.O. Initials: [Signature]

Historical and Statutory Notes

1996 Legislation

The 1996 amendment substituted "sheriff or marshal" for "sheriff, marshal, or constable".

Short title, legislative findings, and intent of Stats.1996, c. 872 (A.B.3472), see Historical and Statutory Notes under Business and Professions Code § 8762.

Subordination of legislation by Stats.1996, c. 872 (A.B. 3472), to other 1996 legislation, see Historical and Statutory Notes under Business and Professions Code § 8762.

Library References

Legal Jurisprudences

Cal Jur 3d Jury §§ 44, 52, 56, 58, 59, 66, 68.

Am Jur 2d Jury §§ 155, 156, 158.

Treatises and Practice Aids

Witkin, Procedure (4th ed) Trial § 135.

The Rutter Group, Civil Trials and Evidence (Wegner, Fairbank, Epstein & Chernow) § 5:89.

The Rutter Group, Personal Injury (Flahavan, Rea, Kelly & Tenner) § 5:219.

§ 213. Availability of jurors on telephone notice

Unless excused by reason of undue hardship, all or any portion of the summoned prospective jurors shall be available on one-hour notice by telephone to appear for service, when the jury commissioner determines that it will efficiently serve the operational requirements of the court.

Jurors available on one-hour telephone notice shall receive credit for each day of such availability towards their jury service obligation, but they shall not be paid unless they are actually required to make an appearance.

(Added by Stats.1988, c. 1245, § 2.)

Library References

Legal Jurisprudences

Cal Jur 3d Crim L § 2983; Jury § 59.

Treatises and Practice Aids

Witkin, Procedure (4th ed) Trial § 133.

The Rutter Group, Civil Trials and Evidence (Wegner, Fairbank, Epstein & Chernow) §§ 5:94, 5:98.

Additional References

Cal Digest of Official Reports 3d Series, Delinquent, Dependent, and Neglected Children § 14.

§ 214. Orientation for new jurors; notice of rights under Labor Code

The jury commissioner shall provide orientation for new jurors, which shall include necessary basic information concerning jury service. The jury commissioner shall notify each juror of the provisions of Section 230 of the Labor Code.

(Added by Stats.1988, c. 1245, § 2. Amended by Stats.1989, c. 1416, § 8.)

Historical and Statutory Notes

1988 Legislation

Former § 214 was repealed by Stats.1988, c. 1245, § 1.

1989 Legislation

The 1989 amendment added the second sentence.

Library References

ALR Library

Age group underrepresentation in grand jury or petit jury venire. 62 ALR4th 859.

Treatises and Practice Aids

Witkin, Procedure (4th ed) Trial §§ 129, 131.

Legal Jurisprudences

Cal Jur 3d Actns § 159; Jury §§ 48, 56.

§ 215. Fees for jurors; mileage

(a) * * * Beginning July 1, 2000, the fee for jurors in the superior and municipal courts, in civil and criminal cases, is fifteen dollars (\$15) a day for each day's attendance as a juror after the first day.

* * *

(b) Unless a higher rate of mileage is otherwise provided by statute or by county or city and county ordinance, jurors in the superior and municipal courts shall be reimbursed for mileage at the rate of fifteen cents (\$0.15) per mile for each mile actually traveled in attending court as a juror, in going only.

(Added by Stats.1988, c. 1245, § 2. Amended by Stats.1998, c. 931 (S.B.2139), § 54, eff. Sept. 28, 1998; Stats.2000, c. 127 (A.B.2866), § 1, eff. July 10, 2000.)

Additions or changes indicated by underline; deletions by asterisks * * *

Library References

ALR Library

Am Jur 2d Grand Jury § 16.

Validity of indictment as affected by substitution or addition of grand jurors after commencement of investigation. 2 ALR4th 980.

Treatises and Practice Aids

Witkin & Epstein, Criminal Law (2d ed) § 1797.

Legal Jurisprudences

Cal Jur 3d Crim L § 2657.

§ 889. Indictment defined

Notes of Decisions

Right to counsel 3

13 Cal.Rptr.2d 551, 3 Cal.4th 1018, 839 P.2d 1059, modified on denial of rehearing.

3. Right to counsel

2. Purpose of indictment or information

Grand jury serves as part of charging process of criminal procedure, not adjudicative process that is province of courts or trial jury. Cummiskey v. Superior Court (1992)

Until the presentment of indictment by grand jury, defendant's right to counsel did not attach. People v. Brown (App. 1 Dist. 1999) 89 Cal.Rptr.2d 589, 75 Cal. App.4th 916, rehearing denied, review denied, certiorari denied 121 S.Ct. 82, 531 U.S. 830, 148 L.Ed.2d 44.

§ 890. Fees of grand jurors; mileage

Text of section operative July 1, 2002.

Unless a higher fee or rate of mileage is otherwise provided by statute or county or city and county ordinance, the fees for grand jurors are fifteen dollars (\$15) a day for each day's attendance as a grand juror, and * * * the mileage reimbursement applicable to county employees for each mile actually traveled in attending court as a grand juror.

(Amended by Stats.2001, c. 218 (A.B.1161), § 1, operative July 1, 2002.)

For text of section operative until July 1, 2002, see Penal Code § 890, main volume.

Historical and Statutory Notes

2001 Legislation

Stats.2001, c. 218 (A.B.1161), substituted "fifteen dollars (\$15)" for "ten dollars (\$10)" and "the mileage reimburse-

ment applicable to county employees" for "fifteen cents (\$0.15) a mile, in going only."

Cross References

Compensation and mileage for grand jury members, see Government Code § 68091.

Library References

Legal Jurisprudences

Cal Jur 3d Crim L § 2658.
47 Am Jur 2d Jury § 94.

Treatises and Practice Aids

Witkin & Epstein, Criminal Law (2d ed) § 1797.

Chapter 2

FORMATION OF GRAND JURY

United States Supreme Court

Grand juries, discriminatory exclusion of blacks, standing of white defendant, see Campbell v. Louisiana, 1998, 118 S.Ct. 1419.

Additions or changes indicated by underline; deletions by asterisks * * *

Chapter 2.33JURIESSections:

- 2.33.010 Jury fees and mileage.
- 2.33.020 Grand jury mileage.

2.33.010 Jury fees and mileage.

Pursuant to Penal Code Section 1143 and Code of Civil Procedure Section 196, the fees for trial jurors in criminal and civil cases in the superior, municipal and justice courts of Mariposa County shall be five dollars (\$5.00) a day for each day's attendance as a juror and mileage to be computed at the rate of twenty-five cents (\$.25) per mile for each mile actually traveled to and from the County Courthouse, to attend court as a juror. (Ord. 692 Sec.1, 1987).

2.33.020 Grand jury mileage.

Pursuant to authority granted in Penal Code Section 890 and Government Code Section 68091, the mileage rate for grand jurors shall be twenty-five cents (\$.25) per mile for each mile actually traveled to and from attending court as a grand juror, in attending regular official meetings of the grand jury, and in such other travel as may be authorized by the presiding judge of the superior court. (Ord. 634 Sec.2, 1984; Ord. 590 Sec.1, 1982).

MARIPOSA COUNTY ORDINANCE NO. 980

AN ORDINANCE AMENDING CHAPTER 2.33
OF THE MARIPOSA COUNTY CODE
ENTITLED "JURIES"

WHEREAS, the Board of Supervisors desire to amend Sections 2.33.010 and 2.33.020 of Chapter 2.33 of the Mariposa County Code to be in accord with amendments to Section 215 of the Code of Civil Procedure and Section 890 of the Penal Code; and

WHEREAS, pursuant to Section 215 of the Code of Civil Procedure, "effective July 1, 2000 the fee for jurors in the Superior and Municipal Courts, in civil and criminal cases, is fifteen dollars (\$15) a day for each day's attendance as a juror after the first day"; and

WHEREAS, pursuant to Section 890 of the Penal Code, "effective July 1, 2002, unless a higher fee or rate of mileage is otherwise provided by statute or county or city and county ordinance, the fees for grand jurors are fifteen dollars (\$15) a day for each day's attendance as a grand juror, and the mileage reimbursement applicable to county employees for each mile actually traveled in attending court as a grand juror".

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, a political subdivision of the State of California, does ordain as follows:

SECTION I: Section 2.33.010 entitled "Jury Fees and Mileage" and Section 2.33.020 entitled "Grand Jury Mileage" of Chapter 2.33 is hereby amended by rescinding and replacing it in its entirety to read as follows:

2.33.010 Jury Fees and Mileage.

Pursuant to authority granted in Section 215 of the Code of Civil Procedure, the fees for jurors in the Superior Court, in civil and criminal cases, is fifteen dollars (\$15) a day for each day's attendance as a juror after the first day and mileage shall be reimbursed at the current IRS mileage rate, as amended from time to time, traveled to and from the County Courthouse, to attend court as a juror.

2.33.020 Fees of Grand Jurors; Mileage.

Pursuant to authority granted in Penal Code Section 890, the fees for Grand Jurors are fifteen dollars (\$15) a day for each day's attendance as a Grand Juror and the mileage reimbursement applicable to county employees for each mile actually traveled in attending court as a Grand Juror.

SECTION II: This Ordinance shall become effective thirty (30) days after final passage pursuant to Government Code Section 25123.


PASSED AND ADOPTED by the Board of Supervisors of Mariposa County this 3rd day of December 2002 by the following vote:

AYES: Parker, Reilly, Stewart, Pickard, Balmzin
NOES: None
ABSENT: None
ABSTAINED: None


ROBERT C. STEWART, Chairman
Mariposa County Board of Supervisors

ATTEST:

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:


MARGIE WILLIAMS
Clerk of the Board


JEFFREY G. GREEN
County Counsel