



Supreme Court of Kentucky

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Judicial Branch Budget Recommendation for Fiscal Biennium 2020-2022

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Testimony before House Budget Review Subcommittee
on Justice, Public Safety, & Judiciary
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Capitol Annex, Room 154, Frankfort, Kentucky

Chairman Nemes, Members of the Committee and Guests,

Good afternoon and thank you for inviting me to join you today. I always appreciate the opportunity to discuss the budgetary needs of the Judicial Branch.

Today I'd like to walk you through the highlights of our budget recommendation for Fiscal Biennium 2020-2022. As those of you on this committee may know, the Judicial Branch supports 406 elected justices, judges and circuit court clerks and nearly 3,400 non-elected court employees. Our dedicated court personnel handle nearly 870,000 cases each year.

While the Judicial Branch represents only 3% of the state's total budget, it accounts for 10% of the state's workforce. It takes 88% – nearly all of our Court Operations funds – to cover salaries and benefits.

The Judicial Branch budget is divided into four appropriation units: Court Operations & Administration, Local Facilities Fund, Use Allowance Contingency Fund and Judicial Retirement. I'd first like to discuss our funding requests for the two largest units, which are Court Operations and Local Facilities Fund.

Court Operations & Administration Appropriation: Additional Funding Requests

Defined Calculations

Pursuant to the budget instructions, we were required to make a defined calculations request, which would cost \$9.1 million in FY 21 and \$11.2 million in FY 22. These include:

- 1% annual increment for the elected officials and non-elected personnel
- KERS retirement contribution of 93.01%
- CERS retirement contribution of 26.95%
- 3% increase in health insurance costs

Vacant Positions

The budget instructions required vacant positions to be taken out of the baseline budget and treated as an additional funding item. We had 168 general fund vacant positions when we took a snapshot of the personnel complement in August 2019. Those positions are in the process of being filled with deputy clerks, pretrial officers, Drug Court staff, court designated workers and staff attorneys.

The cost of filling vacant positions would be \$10.6 million in FY 21 and \$10.7 million in FY 22.

Compensation Plan

We're requesting a 2.5% increase in each year of the biennium for our non-elected court employees and our elected justices, judges and circuit court clerks.

Non-Elected Personnel. Salaries for the Judicial Branch's non-elected employees have traditionally trailed similar jobs in the Executive Branch by about \$3,000 to \$7,000. We need to increase compensation to stay competitive in the job market. We're also asking to bring the starting salary for Circuit Court staff attorneys from \$34,750 to \$39,790.

Circuit Court Clerks. In addition, the salaries of our elected circuit court clerks lag behind their counterparts in county government. The compensation for circuit clerks and county clerks is based on their county's population, with circuit clerks falling short of county clerks by \$7,000 to \$13,600, depending on the population group.

Judges. I've been working hard for many years to improve compensation for our justices and judges, which ranks at the bottom of all states in the country. For example, the pay for our circuit judges places them 50th in the nation and U.S. Territories. Kentucky judges earn 22-25% less than the national average and we must continue to boost our judicial salaries if we want to encourage high-quality attorneys to seek the bench.

Our total request for the compensation plan is \$7.4 million in FY 21 and \$14.9 in FY 22.

Local Facilities Fund Appropriation: Additional Funding Requests

The Local Facilities Fund covers the debt service on bonds for judicial centers and courthouses, private sector leases, and repairs to judicial centers and courthouses.

Maintenance Pool. All judicial centers and courthouses in Kentucky are owned by the county. Due to the age of the buildings and the need to preserve county assets, we want to create a maintenance pool for the AOC to use for planned and unanticipated non-capital projects. These would include but not be limited to new roofs, new boilers, chillers and HVAC systems.

The cost for a maintenance pool would be \$3 million in FY 21 and \$3 million in FY 22.

Capital Projects in 5 Counties. We're requesting funds to build new judicial centers in Butler, Clinton and Owsley counties and for renovations/additions in Crittenden and Jessamine counties.

Authorization would allow these projects to move forward, with funding for the debt service, operating costs and furniture/equipment to be deferred to the 2022-2024 fiscal biennium.

Governor's Set-Aside

I would like to address the governor's set-aside number for the Judicial Branch. We have been asked by several legislators how the court system would be impacted by the set-aside, which is \$390.6 million in FY 21 and \$396.2 million in FY 22.

You can see from the spreadsheet in your packet that the governor's set-aside fully funds the Local Facilities Fund unit but falls short of fully funding Court Operations by \$20.7 million in FY 21 and \$28.1 million in FY 22. It also requires a fund transfer of \$7.5 million in each year of the biennium that would come out of the Court Operations unit.

As I noted earlier, Court Operations covers the salaries and benefits of all court personnel and takes up 88% of the funding for this unit. With a total deficit of \$63.8 million over the two years, the set-aside:

- Only funds the defined calculation at 75% over the biennium.
- Does not fund the vacant positions for a deficit of \$21.3 million over the biennium.
- Does not fund any amount of the compensation plan.
- Requires a lapse of \$15 million over the biennium.

If the enacted budget incorporates the governor's set-aside number, the Judicial Branch would have to cut 387 positions, which is 11.4% of our non-elected workforce. I'm sure you can understand how damaging that would be to the commonwealth and the court system.

Driver's License Issuance

And finally, as many of you are aware, Kentucky has the only court system in the country that issues all forms of driver's licenses. The Judicial Branch has never received a general fund appropriation for performing this function for the Executive Branch. The only revenue we receive is \$5.4 million per year from all license fees, which comes to us as restricted funds.

Following the unsuccessful initial rollout of Real ID, the Transportation Cabinet and court system agreed last summer that it would be in the best interest of our citizens to transition all driver's license functions to the Transportation Cabinet.

With \$5.4 million in restricted funds moving to the Transportation Cabinet, it will be difficult to maintain the 137 deputy clerk positions that are currently funded through that revenue. In addition to issuing driver's licenses, the majority of these deputy clerks also handle court business.

We have several circuit court clerks here today who are understandably concerned about this issue and how it will affect their operations. The loss of these restricted funds will negatively impact the Offices of Circuit Court Clerk statewide.

Closing Remarks

Thank you again for your time today and I'll be happy to answer any questions you may have.