

CHAPTER 496**(HB 734)**

AN ACT relating to the Court of Justice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 26A.090 is amended to read as follows:

As used in KRS 26A.090 to 26A.115, unless the context otherwise requires:

- (1) "Operating costs allowance" means compensation equivalent to the annual expenses borne by the unit of government for utilities, janitorial service, rent, insurance, and necessary maintenance, repair, and upkeep of the court facility which do not increase the permanent value or expected life of the court facility, but keeps it in efficient operating condition, and, at the election of the Administrative Office of the Courts, capital costs of interior or mechanical renovations for the benefit of the court.
- (2) "Use allowance" means compensation equal to four percent (4%) annually of the total original capital costs and the cost of capitalized renovation of the court facility, except that if indebtedness has been incurred in respect to such capital costs at an interest rate equal to or greater than seven percent (7%), compensation shall be at a rate of eight percent (8%) annually of that portion of the capital costs for which the rate applies. For refinanced projects constructed or renovated prior to July 1, 1994, the use allowance payment shall not change for the term of the original bond issue, unless there is a change in the space occupied. For court facilities renovated or constructed after July 1, 1994, "use allowance" means the court's proportional share of the annual principal and interest cost in connection with the renovation or construction, but not to exceed eight percent (8%) annually of capital costs, or, if there is no debt, four percent (4%) annually of capital costs. ***Beginning with court facility construction or renovation projects authorized by the 2000 Regular Session of the General Assembly, "use allowance" means the court's proportional share of the annual principal and interest costs in connection with the construction or renovation of the facility, not to exceed the authorized annual use allowance.***
- (3) "Capital costs" means the costs borne by the unit of government, excluding grants, conditioned by the grantor agency specifically for court facility construction or renovation, for acquisition of property and for construction and capitalized renovation including interest accruing during construction or renovation, but no other interest of each court facility. If capital costs are not documented, reasonable estimates provided by qualified appraisers will suffice. ***After the effective date of this Act, capital costs, for the purpose of computing the maximum annual use allowance, shall not exceed the project scope as authorized by the General Assembly in the judicial branch budget or as increased and approved under Section 4 of this Act.***
- (4) "Capitalized renovation" means all remodeling involving the structural or mechanical systems, except for remodeling that involves substantial demolition of the original structure. Remodeling involving substantial demolition of the original structure shall constitute construction resulting in a new court facility.
- (5) "Unit of government" means a county, city, urban-county government, special district, or corporate entity created for the purpose of constructing or holding title to a court facility.

- (6) "Court facility" means the land and buildings owned or operated by a unit of government in which space for the court of justice is provided. Judges' benches, jury and witness boxes, and fixed seating shall be considered as permanent building fixtures.
- (7) "Court facilities standards committee" means a committee consisting of the Chief Justice or his designee; one (1) judge each of the Court of Appeals, the Circuit Court, and the District Court appointed by the Supreme Court; the president of the Circuit Clerks' Association; the **chairmen**~~[chairman]~~ of the **House and Senate** Judiciary~~[-Civil]~~ Committees of the General Assembly; the secretary of the Finance and Administration Cabinet; **the director of the Administrative Office of the Courts**; and a county judge/executive appointed by the Governor. Each appointed member shall serve for a term of four (4) years from the date of his appointment or until he vacates the office in respect to which he was appointed, whichever is earlier.

SECTION 2. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

- (1) *The Chief Justice shall establish rules of procedure or guidelines on matters relating to the design, financing, and construction of court facilities. The rules or guidelines shall encompass:*
- (a) *The duties and responsibilities of the Administrative Office of the Courts under this section;*
 - (b) *Criteria for evaluating the feasibility or practicability of various contracting or construction methods;*
 - (c) *A project management system for managing, monitoring, and reporting on projects through all phases from funding to completion, including change-order procedures;*
 - (d) *Assistance to counties in evaluating proposals for architectural, construction, or other professional services;*
 - (e) *Methods for financing energy savings projects, Americans with Disabilities Act projects, and other improvement projects;*
 - (f) *Kentucky standards for court facilities, including detailed requirements for space, construction, interior and exterior finishes, structural and mechanical systems, fixed and moveable furniture and equipment, and maximum unit cost for court facilities throughout the Commonwealth; and*
 - (g) *The maintenance and operation of court facilities after construction.*
- (2) *The Administrative Office of the Courts shall oversee the design, financing, and construction of court facilities. The Administrative Office of the Courts shall:*
- (a) *Assess the need for court facilities construction or renovation throughout the Commonwealth. The assessment shall consider the age, space adequacy, projected needs, structural soundness, mechanical and electrical systems, security needs, and interior and exterior quality of existing court facilities;*
 - (b) *Develop a project program for the construction or renovation of court facilities that the Administrative Office of the Courts determines to be most in need of construction or renovation, based on the needs assessment required under paragraph (a) of this*

subsection. The project program shall detail a complete and specifically defined court facilities project that conforms to the Kentucky standards

for court facilities established under paragraph (f) of subsection (1) of this section, and shall include itemized space requirements, space relationships, design goals, scope limits, site considerations, cost estimates, and a proposed project budget;

- (c) Establish the financial condition of any county that contains a court facility for which a project program under paragraph (b) of this subsection has been developed to determine the county's ability to participate in the proposed project. The Administrative Office of the Courts may discharge this responsibility by obtaining certification of the county's financial condition from the Department for Local Government, under subsection (5) of Section 7 of this Act;*
 - (d) Develop a prioritized list, with cost estimates, based on land availability and the considerations required by this section, of proposed court facilities projects, and submit the list to the Chief Justice for approval and to the Court Facilities Standards Committee for informational purposes only. Upon approval by the Chief Justice, the Administrative Office of the Courts shall submit the prioritized list to the Capital Planning Advisory Board, by April 15 of each odd-numbered year, in accordance with KRS 7A.120; and*
 - (e) Develop and maintain uniform contracts to be used by local units of government when procuring architectural, construction, financial, or other services relating to court facilities projects authorized by the General Assembly.*
- (3) Before the Administrative Office of the Courts submits a budget request for court projects under KRS 48.050, each local unit of government that is expected to participate in financing a requested court project shall enter into a written memorandum of agreement with the Administrative Office of the Courts. Each county with a court project authorized by the 2000 General Assembly shall enter into a written memorandum of agreement with the Administrative Office of the Courts. The agreement shall be developed by the Administrative Office of the Courts, shall specify the rights, duties, and obligations of the local unit of government and the Administrative Office of the Courts relating to the project, and shall be contingent upon the project's authorization by the General Assembly.*
 - (4) No contract, and no modification to any contract, relating to the design, financing, or construction of court facilities projects authorized by the General Assembly shall be executed unless first reviewed and approved by the Administrative Office of the Courts.*
 - (5) All court facilities projects, beginning with those authorized by the 2000 General Assembly, shall comply with the Kentucky standards for court facilities established under paragraph (f) of subsection (1) of this section. No other standards shall be used.*
 - (6) This section shall not affect or apply to any contract executed prior to the effective date of this Act.*
 - (7) All local units of government or any other entity providing space to the Court of Justice under KRS 26A.100 shall, consistent with the law, comply with the rules of procedure and guidelines established by the Chief Justice and administered by the Administrative Office of the Courts under this section.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

- (1) *The use allowance in the judicial branch budget recommendation submitted under KRS 48.100 shall be determined as if bonds will be issued for a term of twenty (20) years at the prevailing market rate, computed from the estimated date that the Court of Justice will occupy the facility. If the market rate for the bonds has increased when the bonds are to be sold, the director of the Administrative Office of the Courts may approve an extension in the bond term, up to a total of twenty-five (25) years, but only as necessary to keep the annual use allowance within the budgeted amount. All bonds issued by any local unit of government for court facilities projects shall be limited to the term approved by the Administrative Office of the Courts.*
- (2) *Before approving any bond issue for a term exceeding twenty-five (25) years, the director of the Administrative Office of the Courts shall submit a proposal for the extended term to the Interim Joint Committee on Appropriations and Revenue and the Capital Projects and Bond Oversight Committee. The proposal shall include a statement of the necessity for the extended bond term and the impact of the extended term on the project's budgeted scope and authorized annual use allowance.*
- (3) *Within thirty (30) days after receiving a proposal to extend a bond term beyond twentyfive (25) years, the Interim Joint Committee on Appropriations and Revenue and the Capital Projects and Bond Oversight Committee shall either approve or disapprove the proposal and shall then promptly notify the director of the Administrative Office of the Courts. If either committee disapproves the proposal, the director of the Administrative Office of the Courts shall take one (1) of the following actions and shall notify the committee of its decision in writing within thirty (30) days: (a) Disapprove and take no further action on the proposal;*
 - (b) *Revise the proposal to comply with the committee's objections; or*
 - (c) *Determine to approve and proceed with the proposal over the committee's objection.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

- (1) *There is created a court facility use allowance contingency fund. The fund shall consist of money appropriated to it in the judicial branch budget by the General Assembly. Money in the fund shall not lapse but shall be carried forward to the next fiscal year or biennium.*
- (2) *The Court of Justice may agree to increase the budgeted scope of a court project or project pool authorized in a judicial branch budget bill enacted by the General Assembly, and may use the use allowance contingency fund to cover any resulting increase in the budgeted annual use allowance, if and only if:*
 - (a) *The appropriate unit of government first submits a proposal for the increase to the Court Facilities Standards Committee, and the Court Facilities Standards Committee approves the increase;*
 - (b) *The annual use allowance for the project or project pool, adjusted for the proposed increase in scope, would not exceed the annual use allowance specified for that project or project pool in the multiyear use allowance schedule set out in the judicial*

branch budget bill or memorandum by more than fifteen percent (15%); and (c) The requirements of Section 5 of this Act have been met.

SECTION 5. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

- (1) *Before the Court of Justice gives final approval to an increase in the budgeted scope of an authorized project or project pool listed in a judicial branch budget bill which would result in an increased use allowance, the director of the Administrative Office of the Courts shall submit a proposal for the increase to the Capital Projects and Bond Oversight Committee at least fourteen (14) days prior to the committee meeting. The proposal shall include:*
 - (a) *The multiyear use allowance specified in the judicial branch budget bill or memorandum;*
 - (b) *The proposed increase in the use allowance;*
 - (c) *The reasons and necessity for the proposed increase;*
 - (d) *A statement as to whether or how the proposed use of funds conforms with the requirements of the law; and*
 - (e) *Any other information that the committee requests.*
- (2) *Within thirty (30) days after receiving a proposal to increase the use allowance, the Capital Projects and Bond Oversight Committee shall either approve or disapprove the proposal and shall then promptly notify the director of the Administrative office of the Courts of its decision.*
- (3) *If the Capital Projects and Bond Oversight Committee disapproves the proposal, the director of the Administrative Office of the Courts shall take one (1) of the following actions and shall notify the committee of its decision in writing within thirty (30) days of receiving the committee's notice of disapproval:*
 - (a) *Revise the proposal to comply with the committee's objections;*
 - (b) *Cancel and take no further action on the proposal; or*
 - (c) *Determine to implement the proposal over the committee's objection.*
- (4) *The Administrative Office of the Courts shall report to the Capital Projects and Bond Oversight Committee within thirty (30) days of any action taken by the Court of Justice to approve a scope increase of a project within a pool which would increase the use allowance for that project.*
- (5) *The Capital Projects and Bond Oversight Committee shall maintain records of proposals, findings, decisions, and actions taken under this section. When appropriate, the committee shall provide this information to other legislative committees or to the General Assembly.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

- (1) *The Administrative Office of the Courts shall provide to the Capital Projects and Bond Oversight Committee, at the committee's January, April, July, and October regular meetings, a status report on the progress of all incomplete court facilities projects. For each project, the status report shall include:*

- (a) *The project title;*
 - (b) *The county in which the project is located;*
 - (c) *The scope and use allowance authorized for the project in the judicial branch budget and budget memorandum, and any increases to the scope or use allowance under Section 4 of this Act;*
 - (d) *The current status of the project;*
 - (e) *An explanation of any delay or major change in the project; and (f) Any other information that the committee requests.*
- (2) *On August 1 of each year, the Administrative Office of the Courts shall prepare a financial report on the court facility use allowance contingency fund for the fiscal year ending on June 30 of that year. The report shall include, with explanations, allotments, expenditures, encumbrances, and the available balance.*

Section 7. KRS 147A.021 is amended to read as follows:

- (1) The Department for Local Government shall have the following powers and duties:
- (a) To require any reports from local governments that will enable it adequately to provide the technical and advisory assistance authorized by this section.
 - (b) To encourage, conduct, or participate in training courses in procedures and practices for the benefit of local officials, and in connection therewith, to cooperate with associations of public officials, business and professional organizations, university faculties, or other specialists.
 - (c) To request assistance and information, which shall be provided by all departments, divisions, boards, bureaus, commissions, and other agencies of state government to enable the department to carry out its duties under this section.
 - (d) At its discretion, to compile and publish annually a report on local government.
- (2) The Department for Local Government shall coordinate for the Governor the state's responsibility for, and shall be responsible for liaison with the appropriate state and federal agencies with respect to, the following programs:
- (a) Demonstration cities and metropolitan development act as amended with the exception of Title I of the Housing and Community Development Act of 1974 as amended through 1981;
 - (b) Farmers Home Administration;
 - (c) Veterans Administration Act as amended, as it pertains to housing.
- (3) The Department for Local Government shall provide technical assistance and information to units of local government, including but not limited to:
- (a) Personnel administration;
 - (b) Ordinances and codes;
 - (c) Community development;
 - (d) Appalachian Regional Development Program;

- (e) Economic Development Administration Program;
 - (f) Intergovernmental Personnel Act Program;
 - (g) Land and Water Conservation Fund Program;
 - (h) Area Development Fund Program;
 - (i) Gas System Restoration Project;
 - (j) Joint Funding Administration Program;
 - (k) State clearinghouse for A-95 review;
 - (l) The memorandums of agreement with the area development districts to provide management assistance to local governments; and (m) The urban development office.
- (4) The Department for Local Government shall exercise all of the functions of the state local finance officer provided in KRS Chapters 66, 68, and 131 relating to the control of funds of counties, cities, and other units of local government.
- (5) *Upon request of the Administrative Office of the Courts, the Department for Local Government shall evaluate the financial condition of any local unit of government selected to participate in a court facilities construction or renovation project under Section 2 of this Act, and shall certify to the Administrative Office of the Courts the local unit of government's ability to participate in the project.*

Approved April 21, 2000