

**CHAPTER 128****(HB 408)**

AN ACT making appropriations for the operations, maintenance, support, and functioning of the Judicial Branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state-supported activities.

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

**PART I****OPERATING BUDGET**

(1) **Funds Appropriations:** There is appropriated out of the General Fund, Restricted Funds accounts, or Federal Funds accounts for the fiscal year beginning July 1, 2008, and ending June 30, 2009, and for the fiscal year beginning July 1, 2009, and ending June 30, 2010, in the following sums to be used for the purposes of the Judicial Branch of the government of the Commonwealth of Kentucky, including the Supreme Court, Court of Appeals, Circuit Court, Family Court, District Court, the Administrative Office of the Courts, Judicial Retirement, Local Facilities Fund, Local Facilities Use Allowance Contingency Fund, and for services performed by the circuit clerks' offices, including both Circuit and District Court support.

**1. Court of Justice****a. Court Operations and Administration**

	<b>2008-09</b>	<b>2009-10</b>
General Fund	180,796,300	185,746,300
Restricted Funds	43,583,200	38,790,400
Federal Funds	1,131,400	1,170,600
<b>TOTAL</b>	<b>225,510,900</b>	<b>225,707,300</b>

(1) **Salary Adjustments:** Funds are included to provide a one percent salary adjustment in fiscal year 2008-2009 and in fiscal year 2009-2010 for non-elected court personnel, Justices, Judges, and circuit clerks.

(2) **Pay Equity:** Included in the above Restricted Funds appropriation is \$7,849,500 in fiscal year 2008-2009 and \$8,242,100 in fiscal year 2009-2010 for pay increases for deputy clerks as proposed in the Judicial Branch Budget Recommendation, except that Restricted Funds shall be utilized in place of General Fund moneys.

(3) **Drug Court Sites:** The Chief Justice may use Restricted Funds totaling \$1,996,900 in fiscal year 2008-2009 and \$2,065,600 in fiscal year 2009-2010 to replace Federal Funds from Operation UNITE for existing drug court sites whose funding is expected to expire during the 2008-2010 fiscal biennium.

(4) **Drug Testing Kits:** Included in the above General Fund appropriation is \$3,000 in each fiscal year for drug testing kits for the Twentieth Judicial District.

(5) **Memorial of Justice McAnulty:** Included in the above General Fund appropriation is \$50,000 in fiscal year 2008-2009 for an appropriate, permanent memorial bust of the late Supreme Court Justice William E. McAnulty to be displayed on the second floor of the Capitol.

(6) **Funds Carry Forward:** Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 2007-2008 shall not lapse and shall continue into fiscal year 2008-2009, and any unexpended balance remaining at the close of fiscal year 2008-2009 shall not lapse and shall continue into fiscal year 2009-2010.

(7) **Increase in Court Fees:** Pursuant to its authority, if the Supreme Court increases any court fees, the additional income resulting from these fee increases, not to exceed \$5,000,000 in each fiscal year of the biennium, shall be deposited in a trust and agency account for court operations. Any revenue generated by these increases in excess of \$5,000,000 in each fiscal year of the biennium shall be deposited into the General Fund.

**b. Local Facilities Fund**

	<b>2008-09</b>	<b>2009-10</b>
General Fund	79,274,700	104,360,400

(1) **Carlisle County Judicial Center:** Included in the above appropriation is \$1,227,000 in fiscal year 2009-2010 to support six months of use allowance and furniture and equipment costs for the Carlisle County Judicial Center project.

(2) **Local Court Facility Compensation:** Included in the above appropriation are moneys to compensate local units of government for providing court space and for costs incurred in the development of local court facilities as defined in KRS Chapter 26A and provided in Part II of this Act, and to perform all other acts required or authorized by KRS Chapter 26A.

(3) **Funds Carry Forward:** Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 2007-2008 shall not lapse and shall continue into fiscal year 2008-2009, and any unexpended balance remaining at the close of fiscal year 2008-2009 shall not lapse and shall be continued into fiscal year 2009-2010.

(4) **Madison County Family Court Lease:** The Administrative Office of the Courts is authorized to enter into a lease for office space as needed for the Madison County Family Court, and to provide necessary furnishings, infrastructure, and security equipment.

(5) **Fayette County Courthouse Use Allowance:** The use allowance for the Fayette County Courthouse is contingent upon Short Street in Lexington, Kentucky, remaining open to traffic.

**c. Local Facilities Use Allowance Contingency Fund**

	<b>2008-09</b>	<b>2009-10</b>
General Fund	-0-	-0-

(1) **Funds Carry Forward:** Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 2007-2008 shall not lapse and shall continue into fiscal year 2008-2009, and any unexpended balance remaining at the close of fiscal year 2008-2009 shall not lapse and shall continue into fiscal year 2009-2010 to provide for cost overruns in authorized court facilities projects not to exceed 15 percent of the use allowance in accordance with KRS Chapter 26A.

**TOTAL - COURT OF JUSTICE**

	<b>2008-09</b>	<b>2009-10</b>
General Fund	260,071,000	290,106,700
Restricted Funds	43,583,200	38,790,400
Federal Funds	1,131,400	1,170,600
<b>TOTAL</b>	<b>304,785,600</b>	<b>330,067,700</b>

**2. Judicial Retirement System**

	<b>2008-09</b>	<b>2009-10</b>
General Fund	5,764,800	5,779,100

(1) **Judicial Retirement Benefits:** General Fund amounts are included to provide actuarial assessed judicial retirement benefits, pursuant to KRS 21.345 to 21.580.

**TOTAL - OPERATING BUDGET**

	<b>2008-09</b>	<b>2009-10</b>
General Fund	265,835,800	295,885,800
Restricted Funds	43,583,200	38,790,400
Federal Funds	1,131,400	1,170,600
<b>TOTAL</b>	<b>310,550,400</b>	<b>335,846,800</b>

**PART II**

**CAPITAL PROJECTS BUDGET**

**1. Local Facilities Projects**

Project	Project Scope	Maximum	
		Annualized Use Allowance	Total Funds
001. Allen	16,014,000	1,433,000	1,671,000
002. Bracken	15,607,000	1,397,000	1,655,000
003. Carlisle	12,899,400	1,154,000	1,381,000
004. Lawrence	16,272,000	1,456,000	1,650,000
005. Morgan	16,272,000	1,456,000	1,630,000

(1) **Carlisle County Judicial Center:** General Fund support for the use allowance payments and nonrecurring furniture and equipment cost for the Carlisle County Judicial Center is contained in the Local Facilities Fund Budget for fiscal year 2009-2010.

(2) **Deferred Funding:** General Fund support to provide operating costs totaling \$1,215,700, annualized use allowance payments totaling \$5,742,000, and nonrecurring furniture and equipment costs totaling \$3,486,000, less off-setting payments totaling \$351,300, for Allen, Bracken, Lawrence, and Morgan County Judicial Center projects is deferred to the 2010-2012 fiscal biennium pending action of the 2010 General Assembly.

**3. Lease Authorizations**

- a. Franklin County - Lease - Office Space
- b. Franklin County - Lease - Court of Appeals
- c. Jefferson County - Courts Parking Lease

(1) **Local Facilities Projects - Authorized:** Nothing in this Act shall reduce the funding of court facility projects authorized by the General Assembly.

(2) **Local Facilities Use Allowance Contingency Fund:** For any court facility project which is occupied and use allowance funding is insufficient, the use allowance payments shall be approved from the Local Facilities Use Allowance Contingency Fund. If funds are not available in the Local Facilities Use Allowance Contingency Fund, the use allowance payments shall be deemed a necessary governmental expense (General Fund Surplus Account, KRS 48.700).

**TOTAL - JUDICIAL BRANCH BUDGET**

	2008-09	2009-10
General Fund	265,835,800	295,885,800
Restricted Funds	43,583,200	38,790,400
Federal Funds	1,131,400	1,170,600
<b>TOTAL</b>	<b>310,550,400</b>	<b>335,846,800</b>

**PART III**

**GENERAL PROVISIONS**

**1. Expenditure Authority:** The Director of the Administrative Office of the Courts, with the approval of the Chief Justice, may expend any of the funds appropriated for the court operation and administration in any lawful manner and for any legal purpose that the Chief Justice shall authorize or direct. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the Judicial Branch of government.

**2. Severability of Budget Provisions:** Appropriation items and sums in this Act conform to KRS 48.311. If any section, any subsection, or any provisions thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

**3. Duplicate Appropriations:** Any appropriation item and sum in this Act and in an appropriation provision in another Act of the 2008 Regular Session of the General Assembly which constitutes a duplicate appropriation shall be governed by KRS 48.312.

**4. Priority of Individual Appropriations:** KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

**5. Carry Forward of Restricted and Federal Funds:** Notwithstanding KRS 45.229, any unexpended balance remaining in the Court's Restricted Funds accounts or Federal Funds accounts at the close of the fiscal years ending June 30, 2008, and June 30, 2009, shall not lapse and shall continue into the next fiscal year.

**6. Final Budget Document:** The Chief Justice shall cause the Director of the Administrative Office of the Courts to prepare a final budget document reflecting the 2008-2010 biennial budget of the Court of Justice. A copy shall be provided to the Legislative Research Commission and an informational copy shall be furnished to the Finance and Administration Cabinet within 60 days of the adjournment of the 2008 Regular Session of the General Assembly.

**7. Transferability of Funds:** The Chief Justice of the Commonwealth of Kentucky shall have the ability to transfer funds to other programs and budget units within the Judicial Branch. Any funds transferred to other budget units within the Judicial Branch may be used to support any activity, program, or operation of the budget unit or program receiving the respective funds.

**8. Appropriations Revisions:** Proposed revisions to Restricted Funds and Federal Funds appropriations in this Act shall be made and reported pursuant to KRS 48.630(10). The Director of the Administrative Office of the Courts shall notify on a timely basis the Legislative Research Commission of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

**9. Maximum Salary of Trial Commissioners:** Notwithstanding KRS 24A.100(3), funds are included to continue the statutory maximum salary of trial commissioners as provided for in the Judicial Branch Budget Recommendation.

**10. Judicial Retirement:** The compensation payable to any Justice or Judge shall not be reduced by the amount of any retirement benefits received on account of prior judicial service provided the Justice or Judge retired from prior judicial service before December 31, 2004, and began receiving salary compensation prior to the effective date of this Act.

**11. Expenditure of Restricted Funds:** Notwithstanding KRS 31A.010, 42.320(2)(e), 186.440, 186.531, 237.110(7), and 431.078, after allocating and committing Restricted Funds for deputy clerk pay increases as set forth in this Act, the Chief Justice may expend all restricted agency funds as necessary to meet the obligations of this Act and to effectively operate the Judicial Branch.

~~**12. Layoff of Judicial Branch Personnel:** Notwithstanding any provision of this Act or any personnel policies or layoff plans adopted by the Judicial Branch to the contrary, any layoff of Judicial Branch employees shall be implemented as follows:~~

~~(a) The first 50 persons laid off shall be those stationed in the Judicial Branch's central offices in Franklin County; and~~

~~(b) Thirty five percent of any additional persons laid off shall also be those stationed in the Judicial Branch's central offices in Franklin County.} (Vetoed)~~

**13. Collections Pilot Project:** Notwithstanding KRS 45.241, the Administrative Office of the Courts shall institute a pilot project to collect previously unidentified liquidated debt owed to the Court of Justice. The Administrative Office of the Courts shall provide a progress report to the Interim Joint Committee on Appropriations and Revenue by September 1, 2009. Up to 25 percent of money collected through the pilot project, shall be remitted to a trust and agency account with the Administrative Office of the Courts. The remainder of the money collected shall be deposited into the General Fund.

**14. Deferred Court Costs:** No Circuit or District Court costs shall be deferred unless an appropriate fee in lieu of court costs is imposed. Any fees collected in lieu of court costs, not to exceed \$5,000,000 in each fiscal year, shall be remitted to a trust and agency account with the Administrative Office of the Courts. Any fees collected in excess of \$5,000,000 shall be deposited into the General Fund.

**15. Temporary Custody and Commitment Orders:** Notwithstanding KRS 620.220(1), the clerk of the court shall forward to the Administrative Office of the Courts Citizen Foster Care Review Board Program a copy of each temporary custody order and commitment order, or electronic notification thereof, in the manner prescribed by the Administrative Office of the Courts within 14 days of the date the order is issued.

#### **PART IV**

#### **BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN**

The Judicial Branch shall participate in any Budget Reduction Plan or Surplus Expenditure Plan in accordance with the provisions of KRS Chapter 48.

**Legislative Research Commission Note.** Material in this bill that was vetoed by the Governor is bracketed and struck through.

**Vetoed in part April 14, 2008. Remainder signed by Governor April 18, 2008.**