

CHAPTER 162

(HB 244)

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:

➔Section 1. Notwithstanding KRS 48.100 and 48.300, the Judicial Branch Budget is as follows:

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, 2021, and ending June 30, 2022, and for the fiscal year beginning July 1, 2022, and ending June 30, 2023, and for the fiscal year beginning July 1, 2023, and ending June 30, 2024, 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 Court Clerks' offices, including both Circuit and District Court support.

A. JUDICIAL BRANCH

Budget Units

1. COURT OF JUSTICE

a. Court Operations and Administration

	2021-22	2022-23	2023-24
General Fund	10,928,500	283,834,700	288,849,900
Restricted Funds	771,300	51,468,200	49,369,800
Federal Funds	65,700	3,204,900	2,576,000
TOTAL	11,765,500	338,507,800	340,795,700

(1) **Civil Filing Fees:** Pursuant to its authority, if the Supreme Court retains the increases in civil filing fees that were effective in 2008 and 2018, the additional income resulting from the fee increases, not to exceed \$15,468,100 in each fiscal year, shall be deposited into a trust and agency account for court operations and salaries for non-elected personnel. Any revenue generated by these increases in excess of the \$15,468,100 in each fiscal year shall be deposited into the General Fund.

(2) **Certification of Indigency:** Notwithstanding KRS 31.120, no public defense attorney shall be ordered to represent any individual in criminal matters without receiving, in writing, a sworn certification of indigency. The provisions of this subsection do not apply to the appointment of counsel at the earliest necessary proceeding at which the person is entitled to counsel, upon declaration by the person that they are indigent; however, if later determined not to be indigent, the Department of Public Advocacy shall be reimbursed for its representation pursuant to KRS 31.120(1)(b).

b. Local Facilities Fund

	2022-23	2023-24
General Fund	123,915,900	127,509,200

(1) **Local Facility Projects:** Included in the above General Fund appropriation is \$5,328,500 fiscal year 2022-2023 and \$12,890,800 in fiscal year 2023-2024 to support the use allowance, operating, and non-recurring furniture and equipment costs for two judicial center projects authorized by the 2018 General Assembly and seven judicial center projects authorized by the 2021 General Assembly.

(2) **Maintenance Pool:** Included in the above General Fund appropriation is \$3,000,000 in each fiscal year to create a maintenance pool for planned and unanticipated non-capital projects for local courthouses and judicial centers.

(3) **Local Court Facility Compensation:** Included in the above General Fund 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.

(4) **Use Allowance Payments to Counties:** Pursuant to KRS 26A.090(2), beginning with court facility construction or renovation projects authorized by the 2000 Regular Session of the General Assembly and all subsequent court facility projects, use allowance payments are restricted to 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.

(5) **Court Facility Maintenance Fund:** (a) Notwithstanding KRS 26A.090(2), when there is no debt on court facility construction or renovation projects authorized prior to the 2000 Regular Session of the General Assembly, use allowance is restricted to compensation equal to two percent annually of capital costs to be paid to the county unit of government and two percent annually to be retained by the Administrative Office of the Courts and directed to a separate fund specifically for maintenance of court facilities.

(b) The fund created pursuant to paragraph (a) of this subsection shall be used for routine, ongoing, planned, and unanticipated maintenance for court facilities.

(6) **Graves County Temporary Courthouse:** Included in the above General Fund appropriation is \$3,000,000 in fiscal year 2022-2023 to support the renovation of private sector lease space in Graves County.

(7) **Graves County Records:** Included in the above General Fund appropriation is \$969,000 in fiscal year 2022-2023 for the cleaning, restoration, and digitization of court records.

c. Local Facilities Use Allowance Contingency Fund

(1) **Funds Carry Forward:** Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 2021-2022 shall not lapse and shall continue into fiscal year 2022-2023, and any unexpended balance remaining at the close of fiscal year 2022-2023 shall not lapse and shall continue into fiscal year 2023-2024 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

	2021-22	2022-23	2023-24
General Fund	10,928,500	407,750,600	416,359,100
Restricted Funds	771,300	51,468,200	49,369,800
Federal Funds	65,700	3,204,900	2,576,000
TOTAL	11,765,500	462,423,700	468,304,900

2. JUDICIAL FORM RETIREMENT SYSTEM

	2021-22	2022-23	2023-24
General Fund	-0-	4,981,800	5,305,600
Restricted Funds	18,800	743,500	745,200
TOTAL	18,800	5,725,300	6,050,800

(1) **Judicial Retirement Benefits:** Notwithstanding KRS 21.525, General Fund amounts are included to provide actuarial-assessed judicial retirement benefits with interest.

(2) **Administrative Expenses:** Pursuant to KRS 21.540, administrative expenses shall be paid out of an administrative account which shall be funded by transfers of the necessary moneys, in appropriate ratio, from the funds described in KRS 21.550 and 21.560. Notwithstanding Part III, 8. of this Act, Restricted Funds appropriations may be increased to ensure sufficient funding to support the Judicial Form Retirement System.

(3) **Pension Benefit Increase:** Notwithstanding KRS 21.405(5), no pension benefit increase shall be granted to recipients of a retirement allowance under KRS 21.345 to 21.580 on July 1, 2022, or July 1, 2023.

TOTAL - JUDICIAL BRANCH

	2021-22	2022-23	2023-24
General Fund	10,928,500	412,732,400	421,664,700
Restricted Funds	790,100	52,211,700	50,115,000
Federal Funds	65,700	3,204,900	2,576,000
TOTAL	11,784,300	468,149,000	474,355,700

PART II**CAPITAL PROJECTS BUDGET**

(1) **Authorization of Capital Projects:** It is the intent of the General Assembly that any capital project proposed by any state government entity, including the agencies and subdivisions of the Court of Justice, shall be authorized by the General Assembly prior to the project's financing and construction, in accordance with KRS 7A.010, 7A.120, 45.750, 45.760, 45.763, 45.765, and 48.110. Pursuant to KRS 45.760(1), the amount allotted, from all sources, for expenditure on any capital project, including leases as defined by KRS 45.750, shall not exceed the estimated cost as shown in this Act.

(2) **Capital Projects and Bond Oversight Committee:** Capital construction projects and major items of equipment that are not specifically listed in this Act may be authorized only after submission of the project to the Capital Projects and Bond Oversight Committee and in accordance with the other requirements of KRS 45.760(7). Moneys may be transferred to the allotment account of any capital project only after submission of the project to the Capital Projects and Bond Oversight Committee and in accordance with the other requirements of KRS 45.760(6). As required by KRS 45.760, all capital construction items authorized in this Act shall be constructed in accordance with this Act, supporting documentation considered by the General Assembly, and Judicial Branch budget records. Any modifications to the scope of a capital construction project or to a lease shall be reported to the Capital Projects and Bond Oversight Committee before execution.

(3) **Court Facility Planning Process:** The county shall require the Project Development Board to hire a certified architect not otherwise involved with the project to conduct an independent feasibility study to determine whether the needs of the community and the Court of Justice can best be met through the construction of a freestanding building, or through an addition and/or renovation of the existing court facility. The cost for this study shall be an accepted and approved portion of the planning process, and shall be eligible for reimbursement from the bond proceeds.

(4) **Deferred Funding:** (a) General Fund support to provide operating costs of \$204,200, use allowance of \$1,449,800 and nonrecurring furniture and equipment costs of \$500,000 for the Leslie County project is deferred to the 2024-2026 fiscal biennium.

(b) General Fund support to provide operating costs totaling \$234,000, use allowance payments totaling \$1,682,000 and nonrecurring furniture and equipment costs totaling \$750,000 for the Graves County project is deferred to the 2024-2026 fiscal biennium.

(c) General Fund support to provide operating costs totaling \$2,053,500 and nonrecurring furniture and equipment costs of \$3,575,000 for six judicial center projects authorized by the 2020 General Assembly is deferred to the 2024-2026 fiscal biennium.

(d) It is the intent of the General Assembly that all projects in paragraphs (a), (b), and (c) of this subsection shall be funded using resources previously appropriated for projects that no longer require use allowance debt payments in the 2024-2026 fiscal biennium.

(5) **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 Chief Justice may transfer funds from other Judicial Branch accounts in accordance with Part III, General Provisions, Section 7. of this Act to make the necessary payments.

A. JUDICIAL BRANCH

Budget Units	2022-23	2023-24
1. Court Operations and Administration		

001. Electronic Court Filing System

Federal Funds	38,000,000	-0-
---------------	------------	-----

(1) **State Fiscal Recovery Fund:** The above Federal Funds are authorized from the State Fiscal Recovery Fund of the American Rescue Plan Act of 2021.

2. Local Facilities Fund

Project	Project Scope
---------	---------------

001. Leslie	15,640,000
--------------------	------------

002. Graves	18,445,000
--------------------	------------

(1) **Other Funds Impact on Project Scope:** The amount of the project scope for the Graves County Courthouse for which the use allowance defined in KRS 26A.090(2) is authorized shall be adjusted downward subject to the receipt of other funds, including but not limited to insurance proceeds and Federal Funds to be used for the project. This subsection shall not limit adjustments to the project scope otherwise authorized by KRS 26A.166.

003. Jefferson County Judicial Center - Carpet and Paint Project

General Fund	1,189,000	-0-
--------------	-----------	-----

004. Hardin County - HVAC Project

General Fund	3,000,000	-0-
--------------	-----------	-----

3. Lease Authorizations**001.** Franklin County - Lease - Court of Appeals**002.** Jefferson County - Lease - Parking**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 court operations 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 provision 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 2022 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 Funds: Notwithstanding KRS 45.229, any unexpended balance remaining at the close of the fiscal years ending June 30, 2022, June 30, 2023, and June 30, 2024, shall not lapse and shall continue into the next fiscal year.

6. Final Budget Document: The Director of the Administrative Office of the Courts shall prepare a final budget document reflecting the 2022-2024 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 2022 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: Notwithstanding KRS 48.630(10), no revisions for unbudgeted Restricted Funds appropriations for expenditure shall be allotted or expended that have not been appropriated in any enacted

branch budget bill or without the express authority of the General Assembly. Proposed revisions to unbudgeted Federal Funds appropriations for expenditure in this Act shall be made and reported to the Interim Joint Committee on Appropriations and Revenue. 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 variations from the anticipated amount.

9. Maximum Salary of Trial Commissioners: Pursuant to KRS 24A.100(3), no trial commissioner shall be compensated at a rate greater than \$7,200. No funding is provided for trial commissioners commissioned in counties with a residing District Judge.

10. Authorized Personnel Complement: On July 1, 2022, the Administrative Office of the Courts shall establish a record for each budget unit of authorized permanent full-time and other positions based upon the enacted Judicial Budget of the Commonwealth and any adjustments authorized by provisions in this Act. The total number of filled permanent full-time and all other positions shall not exceed the authorized complements pursuant to this section. The Director of the Administrative Office of the Courts may request an increase in the number of authorized positions to the Chief Justice. Upon approval, the Administrative Office of the Courts may authorize the employment of individuals in addition to the authorized complement. A report of the actions authorized in this section shall be provided to the Interim Joint Committee on Appropriations and Revenue on a monthly basis.

11. Debt Restructuring: Notwithstanding any other provision of the Kentucky Revised Statutes, use allowance payments shall not be amended to reflect debt restructuring transactions undertaken by a county during the 2022-2024 fiscal biennium.

12. Court Facility Maintenance Fund Report: For each of the periods ending June 30, 2022, June 30, 2023, and June 30, 2024, the Director of the Administrative Office of the Courts shall prepare a court facility maintenance report. This report shall detail all court facility maintenance undertaken by the Court of Justice, to include any cost-sharing with counties, as well as detail regarding future maintenance needs. This report shall include a statewide expenditure summary followed by individual county expenditures detailing the state's and county's respective share of expenditures. The Administrative Office of the Courts shall provide this report to the Interim Joint Committee on Appropriations and Revenue by September 15 of each fiscal year.

13. Biennial Audits: The Auditor of Public Accounts shall have the right to review, upon request, the accountant's work papers.

14. Budgetary Restructuring: The Court of Justice shall prepare a report to be submitted to the Interim Joint Committee on Appropriations and Revenue by September 1 of each fiscal year detailing the existing budget processes of the Court of Justice and the actual expenditure of funds from the prior fiscal year and budgeted expenditures for the current fiscal year by fund source and individual location or office, for the Supreme Court, Court of Appeals, Circuit Court, Family Court, District Court, Administrative Office of the Courts, Judicial Retirement, Local Facilities Fund, Local Facilities Use Allowance Contingency Fund, and for services performed by the Circuit Court Clerks' offices.

15. Unexpended Use Allowance: Notwithstanding any provision of the Kentucky Revised Statutes, any General Fund moneys appropriated for project-related expenses or use allowance payments in fiscal years 2022-2023 and 2023-2024 that are not expended specifically for project-related expenses or use allowance payments in the fiscal year in which appropriated shall be transferred to the Budget Reserve Trust Fund Account (KRS 48.705).

16. Employee Layoffs, Furloughs, and Reduced Hours: Notwithstanding any statute to the contrary, the following process and procedure is established for July 1, 2022, through June 30, 2024, in the event that the Chief Justice determines that it is desirable for the Court of Justice to layoff, furlough, or reduce hours of employees:

(1) For the purposes of this section:

(a) "Appointing authority" means the Chief Justice, in his or her capacity as provided in KRS 27A.010, or any agent whom he or she has delegated to act on his or her behalf with respect to employee appointments, position establishments, payroll documents, reemployment requests, waiver requests, requests for certification, or other position actions for the Court of Justice;

(b) "Furlough" or "reduction in hours" means the temporary reduction of hours an employee is scheduled to work by the appointing authority within a pay period;

(c) "Layoff" means discharge of employment subject to the rights contained in this section; and

(d) "Employees" includes all persons employed by the Court of Justice;

(2) Upon an order by the Chief Justice, an appointing authority has the authority to layoff or furlough employees or reduce hours of employment for any of the following reasons:

- (a) Lack of funds or budgetary constraints;
- (b) A reduction in the agency's spending authorization;
- (c) Lack of work;
- (d) Abolishment of a position; or
- (e) Other material change in duties or organization;

(3) The appointing authority shall determine the job classifications affected and the number of employees laid-off in each classification and each county to which a layoff applies. In the same department or office, county, and job classification, interim and probationary employees shall be laid-off before any full-time or part-time employees with status are laid-off. For purposes of layoff, "probationary employee" does not include an employee with status serving a promotional probation;

(4) The Chief Justice shall approve and implement all actions taken under subsection (2) of this section and no such layoff, furlough, or reduction of hours may begin until such approval has been granted. The Chief Justice has the authority to determine the extent, effective dates, and length of any action taken under subsection (2) of this section;

(5) In determining the employees to be laid-off, the appointing authority shall consider all employees under the same appointing authority, within the job classification affected, and within the county affected. Consideration shall be given to the following relevant factors:

- (a) Job performance evaluations;
- (b) Seniority;
- (c) Education, training, and experience; and
- (d) Disciplinary record;

(6) Any employee whose position is subject to layoff, furlough, or reduction of hours shall be provided written notice containing the reason for the action as set forth in subsection (2) of this section at least 15 days in advance of the effective date of the action;

(7) Any tenured employee who is laid-off shall be eligible to apply as a reemployment applicant for positions with the same job classification in the Court of Justice. For a period of two years, a reemployment applicant shall be hired before any applicant except another reemployment applicant with greater seniority who is on the same reemployment list. When a reemployment applicant is removed from a reemployment list, he or she shall be notified in writing. A reemployment applicant who accepts another Court of Justice position, tenured or non-tenured, or who retires, shall cease to have eligibility rights as a reemployment applicant;

(8) The appointing authority may place employees subject to a reduction in force;

(9) Furloughs or reduction of hours during a pay period shall not result in the loss of eligibility for any benefit otherwise due the employee;

(10) The appointing authority shall have the authority to promulgate comprehensive administrative regulations governing this section; and

(11) A layoff, furlough, or reduction of hours implemented in accordance with this section shall not be considered a penalization of the employee.

17. Salary Increase for Personnel: Included in the General Fund, Restricted Funds, and Federal Funds appropriations in Part I of this Act are sufficient funds to support a \$2,000 salary increase followed by an eight percent increase on the base salary and wages of each eligible employee effective July 1, 2022, for non-elected personnel. Included in the General Fund, Restricted Funds, and Federal Funds appropriations in Part I of this Act are sufficient funds to support an eight percent increase on the base salary or wages of each eligible employee effective July 1, 2022, for elected personnel.

No increment is provided on the base salary or wages of each eligible employee in fiscal year 2023-2024. It is the intent of the General Assembly to provide a salary increment in fiscal year 2023-2024, subject to the completion of a classification and compensation report.

18. Deferred Payroll: Included in the fiscal year 2021-2022 appropriations in Part I of this Act are sufficient funds to issue the state payroll that had previously been deferred.

19. Caseload Analysis: (1) Notwithstanding the provisions of KRS 21A.350, the General Assembly requests the Supreme Court to direct the Administrative Office of the Courts to perform an updated caseload analysis to verify the need to eliminate the District Court divisions in the Fourth, Fifteenth, Thirtieth, Thirty-first, Fortieth, Forty-first, and Fifty-first Judicial Districts, and the District Court division eliminated in the newly constituted Thirty-eighth Judicial District and in the newly constituted Forty-second Judicial District.

(2) The General Assembly further requests that the updated analysis be initiated by January 1, 2024. If the analysis indicates the need to modify the elimination of the District Court divisions listed in subsection (1) of this section due to population or caseload changes, an amended certification of necessity shall be submitted as required under KRS 21A.350.

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 KRS Chapter 48, except that obligations essential to the constitutional duties and use allowance of the Judicial Branch shall be exempt from any Budget Reduction Plan. The level of participation in a Budget Reduction Plan shall be at the discretion of the Chief Justice and shall not exceed the actual percentage of revenue shortfall.

Signed by Governor April 8, 2022.