

AN ACT relating to public financing for judicial campaigns and making an appropriation therefor.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 9 of this Act, unless the context requires otherwise:

- (1) "Certified judicial candidate" means a participating judicial candidate designated by the registry pursuant to Section 5 of this Act;*
- (2) "Contribution" has the same meaning as in KRS 121.015;*
- (3) "Declaration of intent" means a document signed by a participating judicial candidate and filed with the registry, setting out the request of the participating judicial candidate to be designated a certified judicial candidate and the promise of the participating judicial candidate to comply with the requirements of Sections 1 to 9 of this Act;*
- (4) "Expenditure" means an allowable campaign expenditure as described in KRS 121.175;*
- (5) "Fund" means the clean judicial elections fund established in Section 3 of this Act;*
- (6) "Independent expenditure" has the same meaning as in KRS 121.015;*
- (7) "Judicial candidate" means a candidate, as defined by KRS 121.015, who is running for Justice of the Supreme Court;*
- (8) "Judicial office" means Justice of the Supreme Court;*
- (9) "Nonparticipating judicial candidate" means a judicial candidate who does not choose to participate in Sections 1 to 9 of this Act and who does not seek to be designated a certified judicial candidate;*
- (10) "Participating judicial candidate" means a judicial candidate who seeks to be designated a certified judicial candidate;*

(11) "Qualifying contribution" means a contribution:

- (a) Of twenty-five dollars (\$25), payable to the judicial candidate and applied toward the requirement in subsection (1)(d) of Section 5 of this Act;
- (b) Made by a registered voter residing within the district for the judicial office the judicial candidate is seeking;
- (c) Made during the qualifying period and obtained with the knowledge of the judicial candidate; and
- (d) Acknowledged by a written receipt that identifies the name and address of the contributor;

(12) "Qualifying period" means the time specified for filing petitions pursuant to KRS 118A.060(2), 118A.100(1), or 118A.100(3);

(13) "Registry" means the Kentucky Registry of Election Finance established in KRS 121.110; and

(14) "Seed money contribution" means a contribution of no more than one thousand dollars (\$1,000) per person made to a participating judicial candidate, and includes a contribution from the participating judicial candidate or member of the family of the participating judicial candidate.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

Sections 1 to 9 of this Act establish public financing for election campaigns of certified judicial candidates who have chosen to participate in the public financing program. The registry shall administer Sections 1 to 9 of this Act and may promulgate administrative regulations in order to do so.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

(1) The clean judicial elections fund is created in the State Treasury for the purpose of providing public financing for the election campaigns of certified judicial

candidates. Moneys from the fund shall be used exclusively for the purposes set forth in Sections 1 to 9 of this Act. The registry shall administer the fund.

(2) Moneys from the following sources shall be deposited into the fund:

(a) Moneys from the income tax refund designation program established by Section 10 of this Act;

(b) Moneys distributed from the fund to a certified judicial candidate that remain unspent after the primary, if the judicial candidate is not nominated;

(c) Moneys distributed from the fund to a certified judicial candidate that remain unspent after the regular or special election;

(d) Moneys distributed from the fund to a certified judicial candidate that remain unspent after the judicial candidate withdraws from the election or dies before the election;

(e) Moneys distributed from the fund to a certified judicial candidate who withdraws from the public financing program established by Sections 1 to 9 of this Act;

(f) Voluntary donations to the fund;

(g) Penalties and fines collected pursuant to Section 9 of this Act;

(h) Any appropriations made by the General Assembly; and

(i) Moneys from the Kentucky Bar Association as provided in Section 11 of this Act.

(3) Notwithstanding KRS 45.229, moneys in the fund not expended at the end of a fiscal year shall be carried forward to the next fiscal year, and the fund shall not lapse. Moneys in the fund shall be invested in accordance with administrative regulations promulgated by the State Investment Commission pursuant to KRS 42.525. Interest earnings shall accrue to the fund.

(4) The registry shall disburse moneys from the fund to certified judicial candidates

as set forth in Section 6 of this Act.

(5) The registry may draw moneys from the fund sufficient to administer Sections 1 to 9 of this Act.

(6) Upon the warrant of the registry, the State Treasurer shall disburse moneys from the fund.

(7) The registry may submit to the General Assembly a request for an appropriation from the general fund or for other sources of moneys for the fund.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

By September 1 of the year preceding a judicial election year, the registry shall publish the following information:

(1) A list of all judicial offices scheduled for elections during the next calendar year, identifying for each judicial district and for each scheduled election:

(a) The total number of judicial candidates who ran for that judicial office during the previous election, as reported to the registry;

(b) The total amount of expenditures for the judicial campaigns conducted during the previous election, as reported to the registry; and

(c) The average amount of campaign expenditures, calculated by dividing the total amount of expenditures identified in paragraph (b) of this subsection by the number of judicial candidates identified in paragraph (a) of this subsection;

(2) The total amount of moneys in the fund, minus any of the registry's administrative costs projected to be drawn from the fund before the judicial elections in the next calendar year; and

(3) A written assessment of whether the fund should have sufficient moneys to provide public financing for the judicial elections in the next calendar year.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO

READ AS FOLLOWS:

- (1) In order to be designated as a certified judicial candidate, a participating judicial candidate shall:
- (a) File a declaration of intent with the registry no later than the close of the qualifying period;
 - (b) Collect and spend only seed money contributions, which shall be limited to five thousand dollars (\$5,000), during the qualifying period. This sum shall be increased on July 1 of each year by the percentage increase in the annual average of the consumer price index for all urban consumers for the most recent calendar year as published by the Federal Bureau of Labor Statistics;
 - (c) Report to the registry all seed money contributions no later than five (5) business days after the close of the qualifying period;
 - (d) Obtain and report to the registry two hundred (200) qualifying contributions during the qualifying period; and
 - (e) Return to a contributor any contribution received after the close of the qualifying period.
- (2) A payment, gift, or anything of value shall not be given by the participating judicial candidate in exchange for a qualifying contribution.
- (3) The registry shall determine whether to designate a participating judicial candidate as a certified judicial candidate no later than five (5) business days after verifying that the participating judicial candidate received the required number of qualifying contributions.
- (4) A participating judicial candidate shall be designated a certified judicial candidate if he or she has:
- (a) Signed and filed a declaration of intent;
 - (b) Qualified as a judicial candidate for the office sought;

- (c) Collected and spent only seed money contributions during the qualifying period;
- (d) Obtained two hundred (200) valid qualifying contributions;
- (e) Not run for judicial office as a nonparticipating judicial candidate in the same calendar year in which the designation as a certified judicial candidate is sought; and
- (f) Otherwise complied with Sections 1 to 9 of this Act.
- (5) Upon certification by the registry, a certified judicial candidate shall:

 - (a) Not accept any other contributions unless authorized to do so pursuant to subsection (4) of Section 6 of this Act;
 - (b) Limit expenditures of campaign funds to moneys received from seed money contributions, the qualifying contributions, and the moneys distributed from the fund established in Section 3 of this Act unless authorized to do otherwise pursuant to subsection (4) of Section 6 of this Act;
 - (c) Use all qualifying contributions, seed money contributions, and moneys distributed from the fund for allowable campaign expenditures;
 - (d) Spend all seed money contributions before spending any moneys from qualifying contributions or those distributed from the fund;
 - (e) Be entitled to collect and spend interest earned on campaign bank accounts;
 - (f) Remit to the registry all moneys distributed from the fund, if the certified judicial candidate withdraws from the public financing program established in Sections 1 to 9 of this Act, no later than the date the certified judicial candidate notifies the registry of the withdrawal;
 - (g) Remit to the registry any moneys distributed from the fund that remain unspent after the primary, if the candidate is not nominated as set forth in KRS 118A.060, no later than five (5) business days after the primary;
 - (h) Remit to the registry any moneys distributed from the fund that remain

unspent after the regular election or a special election, no later than five (5) business days after the election; and

- (i) Remit to the registry any moneys distributed from the fund that remain unspent if the candidate withdraws from the race or dies prior to the election, no later than five (5) business days after withdrawal or death of the candidate.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

(1) The registry may use any distribution mechanisms that expedite distribution of moneys from the fund to certified judicial candidates, ensure accountability of fund distribution, and safeguard the integrity of the fund.

(2) If available, moneys from the fund shall be distributed to a certified judicial candidate in the same amount published by the registry as set forth in paragraph (c) of subsection (1) of Section 4 of this Act, minus any seed money and qualifying contributions contributed to the certified judicial candidate. For purposes of this subsection only, a special judicial election shall be treated as though it is a regular judicial election. The registry shall make the distribution at the same time it designates the certified judicial candidate as set forth in Section 5 of this Act.

(3) The registry shall not distribute moneys to certified judicial candidates in excess of the total amount of moneys available in the fund.

(4) If the registry determines that moneys available in the fund are not adequate to pay for all distributions authorized by subsection (2) of this section, the registry shall:

(a) Notify all certified judicial candidates no later than five (5) business days after making the determination;

(b) Reduce the amount of moneys to be distributed to each certified judicial

candidate by an equal percentage, if any moneys are available; and

(c) Allow a certified judicial candidate who does not receive the distribution authorized by subsection (2) of this section to withdraw from the public financing program established under Sections 1 to 9 of this Act, by remitting to the registry any moneys distributed from the fund with notice to the registry of the withdrawal from the public financing program.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

(1) Any person directly involved in or affected by a final action of the registry, other than a determination to refer a violation of Sections 1 to 9 of this Act to the Attorney General or appropriate Commonwealth's or county attorney for prosecution, may seek judicial review of the action within thirty (30) days after the date of the action. If judicial review of any final action of the registry relating to a pending election is sought, the matter shall be advanced on the docket of the court. The court may take any steps authorized by law to accelerate its procedures so as to permit a timely decision.

(2) Requests for written advisory opinions from the registry shall be governed by KRS 121.135.

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

Judicial candidates participating in Sections 1 to 9 of this Act shall be subject to the provisions of KRS Chapter 121.

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

(1) A participating judicial candidate, a certified judicial candidate, or any person acting on behalf of a participating judicial candidate or certified judicial candidate who violates any provision of Section 5 of this Act or any

administrative regulation promulgated thereunder shall be subject to a civil penalty not to exceed ten thousand dollars (\$10,000), payable to the fund, and if a certified judicial candidate, shall remit to the fund any moneys distributed from the fund. The registry or the court may consider as a mitigating factor any circumstances out of the control of the violator.

(2) A participating judicial candidate, a certified judicial candidate, or any person acting on behalf of a participating judicial candidate or certified judicial candidate who knowingly violates any provision of Section 5 of this Act or any administrative regulation promulgated thereunder shall:

(a) Return to the fund any moneys distributed from the fund;

(b) Be fined not less than one thousand dollars (\$1,000) nor more than ten thousand dollars (\$10,000); and

(c) Be confined in the penitentiary for not less than one (1) nor more than five (5) years.

(3) KRS 431.100 to the contrary notwithstanding, the circuit clerk shall transfer all fine money received to the fund established by Section 3 of this Act.

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) Effective for taxable years beginning on or after January 1, 2016, any taxpayer required to file a return under KRS 141.180 who is entitled to an income tax refund and who desires to contribute to the clean judicial elections fund created by Section 3 of this Act may designate an amount, not to exceed the amount of the refund, to be paid to the fund. A designation made under this section shall not affect the income tax liability of the taxpayer, but it shall reduce the income tax refund by the amount designated.

(2) The tax refund designation authorized by this section shall be printed on the individual income tax return form.

(3) The instructions accompanying the individual income tax return shall include a description of the clean judicial elections fund and the purposes for which the funds from the income tax checkoff may be used.

(4) The commissioner shall, by July 1, 2017, and by July 1 of each year thereafter, transfer the funds designated by taxpayers under this section to the clean judicial elections fund created by Section 3 of this Act.

➔Section 11. KRS 21A.140 is amended to read as follows:

(1) Any fees fixed by the Supreme Court to be paid by applicants for admission to the practice of law and for the issuance of a license to practice law shall be promptly paid into the State Treasury by the person, officer, or agency designated by the Supreme Court to receive or collect the fees.

(2) The Supreme Court may allow each member of the Kentucky Bar Association to submit contributions to the clean judicial elections fund created in Section 3 of this Act with his or her annual membership fees.

➔Section 12. This Act takes effect on January 1, 2016.