



Supreme Court of Kentucky

Chambers, State Capitol
Frankfort, Kentucky 40601
502-564-4162

John D. Minton, Jr.
Chief Justice of Kentucky

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Judicial Branch Budget Recommendation for Fiscal Biennium 2018-2020

Chief Justice John D. Minton Jr.
Testimony Before House Standing Committee on Appropriations & Revenue
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Chairman Rudy, Vice Chairman Fleming, Members of the House A&R Committee and
Guests,

Good morning and thank you for inviting me to join you today. This is a special occasion for me as I'm coming before the full House A&R Committee for the first time in my 10 years as chief justice. Our respective branches of state government – the General Assembly and the Court of Justice – have separate and important roles to play and I appreciate getting to discuss with you personally the budgetary needs of the Judicial Branch.

As I note at every opportunity, the Court of Justice appreciates its partnership with the General Assembly. We're proud of our ability to work together on behalf of the people of this great commonwealth.

I want to take a quick look back before looking forward to our next budget. Thanks to the legislature and the governor, the Judicial Branch is operating under its first structurally balanced budget in 10 years.

That's an extraordinary statement, given the tense budget session that went down to the wire in 2016. However, when all was said and done, the legislature passed a viable Judicial Branch budget for Fiscal Years 2017 and 2018. With Gov. Bevin providing a critical veto of funds-transfer language and the General Assembly passing a supplemental appropriation in the Executive Branch budget, the court system ended up with its healthiest budget in a decade.

In practical terms, that means the Judicial Branch has had sufficient funding the last two years to continue operations at nearly current levels and avoid the mass layoffs and program cuts that would have occurred under earlier versions of the budget bill. The court system can fulfill its constitutional mandates statewide and I remain grateful to you and the governor for protecting the services we provide from further crippling cuts.

Today we start the process all over again and I am hopeful of an equally positive outcome for our next biennial budget. With that said, I'm mindful, as always, of the unprecedented financial challenges we're facing this budget session.

JUDICIAL BRANCH BUDGET RECOMMENDATION – FB 2018-2020

At this point, I'd like to walk you through the highlights of our budget recommendation for Fiscal Biennium 2018-2020. It's important to note that the Judicial Branch represents only 3 percent of the state's total budget but 10 percent of the state's workforce. There are nearly 3,300 non-elected court system employees and 404 elected justices, judges and circuit court clerks.

Because **88 percent** of our Court Operations costs are tied up in our people through salaries and benefits, even small cuts to our budget would have a deep and devastating impact. Frankly, there are no Judicial Branch programs that can be cut without severely affecting our employees and undermining our ability to perform our constitutional and statutory functions.

As a reminder, the Judicial Branch budget has three main General Fund appropriation units: Court Operations, Local Facilities Fund and Judicial Retirement. I'm going to discuss each unit in that order.

Court Operations & Administration Appropriation – Additional Funding Requests

The Court Operations & Administration Appropriation Unit includes all personnel costs and the operating costs of those positions, such as travel, supplies and technology. Our top priority for this unit is funding for a Pay Equity Initiative for the non-elected personnel and elected officials.

Pay Equity Initiative – Non-Elected Personnel. The Pay Equity Initiative would provide a salary scale adjustment for non-elected personnel. In the 2014 session, the General Assembly appropriated funds to revise the Judicial Branch's lagging salary structure. However, our lowest salary is again below the federal poverty level for a family of four. That means that more than 400 of our 3,300 full-time employees fall below the federal poverty level. That's down from more than 800 before the General Assembly funded the last salary improvement in 2014.

As you may know, the governor has recognized the turnover in the Department of Juvenile Justice and the Department for Community Based Services due to low salaries and high-stress positions. Yet the Judicial Branch currently loses court designated workers to those Executive Branch agencies. The same is true for our pretrial officers, who often leave for higher-paying jobs in the Executive Branch.

In 2017, Pretrial Services lost **nearly one-third** of its workforce and Family and Juvenile Services lost **nearly one-fourth** of its workforce. Our employees continue to make significantly less than comparable employees in the Executive Branch and we must catch up.

Pay Equity Initiative – Judges. The compensation of Kentucky’s justices and judges ranks below all seven of our surrounding states and 48th among all the states, according to the National Center for State Courts’ January 2017 Survey of Judicial Salaries. Since FY 2009, our judges have received only two salary increases of 1 percent each.

Those were preceded by two years – FY 2007 and FY 2008 – when judges received only \$400 increases. This means it has been a decade since Kentucky’s justices and judges have received an appropriate increase in compensation.

I realize this may not be a popular time to once again raise this issue, but we can no longer postpone addressing it. The future health and viability of Kentucky’s court system depends on attracting and keeping a diverse, experienced and independent judiciary. Despite the state’s difficult financial situation, the need to improve Judicial Branch salaries has not changed.

As you can understand, the lack of progress on this issue has left our judges feeling discouraged and undervalued. It also provides little incentive for the best and brightest attorneys to leave successful law practices and bring their legal knowledge and expertise to the bench. The longer we postpone action, the more difficult it will be to catch up on lost wages and avoid diminishing the quality of the Kentucky judiciary.

Pay Equity Initiative – Circuit Court Clerks. The recommended budget includes a salary increase in each year of the biennium for elected circuit court clerks in an effort to get their pay closer to that of county clerks. Even with this increase, elected officials in the Judicial Branch are still at the bottom of the pay scale when compared to peers and colleagues from other states.

We’re asking for a 5 percent increase for each year of the biennium so that all elected officials are treated the same.

Defined Calculations. The defined calculations in our budget include a 1 percent annual increment for the elected officials and non-elected personnel, a retirement contribution of 83.43 percent to the Kentucky Employees Retirement System and 28.05 percent to the County Employees Retirement System, and a 2 percent increase in health insurance costs.

The cost of the defined calculations comes to a staggering **\$24.5 million in FY 19** and **\$27.1 million in FY 20**.

Replacement of Federal Funds. We’re also asking for replacement funds for federal grants that will end in the next biennium for the Fayette County Veterans Treatment Court, Hardin County Veterans Treatment Court and Hardin County Mental Health Court.

Local Facilities Fund Appropriation – Additional Funding Requests

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

CERS Increase in County Payments. The Court of Justice is statutorily obligated to reimburse counties for the actual cost of the janitorial and maintenance staff who work in courthouses and judicial centers. However, the current budget cannot absorb the increased cost in the rate for the CERS.

Assessments on Courthouses/Judicial Centers. We're requesting funds in FY 19 to conduct assessments on courthouses and judicial centers in 38 counties that have not had a substantial renovation or new judicial center prior to 1996.

Capital Projects. We're also asking for five projects in the Capital Projects budget. These are for new judicial centers in Bath and Butler counties, renovations/additions in Crittenden and Jessamine counties, and a first-floor renovation of the Jefferson County Hall of Justice.

Authorization would allow these projects to move forward and funding for the debt service, operating costs and furniture/equipment to be deferred to the 2020-2022 fiscal biennium, except for Jefferson County. Jefferson County's debt service is included in the Local Facilities Fund Appropriation.

Judicial Retirement Appropriation

The defined calculations for the Judicial Retirement Plan is included in this appropriation. The ARC – annual required contribution – has been fully funded for the Judicial Retirement Plan the last two biennia. These funds have been well managed and have consistently outperformed the other retirement systems.

In closing, I would like to reiterate the message I have consistently delivered during my tenure as chief justice. I am deeply grateful to the Legislative Branch for the valuable partnership we have nurtured over the past decade. Together we have positioned the court system for a bright and viable future through honest, open communication and a relationship of mutual trust.

I strongly believe it is in the best interests of the people of this commonwealth for the legislature to honor our partnership by appropriately funding the Judicial Branch at a level that allows us to maintain our current level of services. Anything less would be catastrophic.

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

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