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VETO MESSAGE FROM THE GOVERNOR OF THE COMMONWEALTH OF KENTUCKY REGARDING HOUSE BILL 306 OF THE 2016 REGULAR SESSION

OPERATING BUDGET

I, Matthew G. Bevin, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under section 88 of the Kentucky State Constitution, do hereby veto the following part:

Page 2, lines 11 through 22, in their entirety.

The salary provisions contemplated in House Bill 306 are in direct conflict to Kentucky law. KRS 64.056 clearly provides that the Chief Justice may propose salary increases for Circuit Clerks. It grants the General Assembly only the power to limit these proposed increases, and does not authorize an increase above and beyond the Chief Justice's proposal. Because House Bill 306 fails to suspend or otherwise address KRS 64.056, this provision is illegal.

FUNDS TRANSFER

I, Matthew G. Bevin, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under section 88 of the Kentucky State Constitution, do hereby veto the following part:

Page 8, lines 19 through 22, in their entirety.

The need to allocate a historical level of resources to Kentucky's underfunded pension liabilities requires that all branches of state government operate within significant budgetary constraints. However, the fund transfers required by HB 306 go beyond the limit of what the Commonwealth should require from the Judicial Branch. If enacted, these fund transfers would risk placing the Judiciary in a position that could potentially negatively impact Kentuckians access to the Courts. It is imperative, however, that the Judicial Branch must continue seeking operational efficiencies and make the maximum effort to collect mandated court costs and fees, which are waived too often for reasons other than an individual's legitimate inability to pay.

This the 8th day of April, 2016

Matthew G. Bevin
Governor

GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2016 REGULAR SESSION

HOUSE BILL NO. 306

WEDNESDAY, MARCH 16, 2016

The following bill was reported to the Senate from the House and ordered to be printed.

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

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

6 ➔Section 1. The Judicial Branch Budget is as follows:

7 **PART I**

8 **OPERATING BUDGET**

9 **(1) Funds Appropriations:** There is appropriated out of the General Fund,
10 Restricted Funds accounts, or Federal Funds accounts for the fiscal year beginning July 1,
11 2016, and ending June 30, 2017, and for the fiscal year beginning July 1, 2017, and
12 ending June 30, 2018, the following sums to be used for the purposes of the Judicial
13 Branch of the government of the Commonwealth of Kentucky, including the Supreme
14 Court, Court of Appeals, Circuit Court, Family Court, District Court, the Administrative
15 Office of the Courts, Judicial Retirement, Local Facilities Fund, Local Facilities Use
16 Allowance Contingency Fund, and for services performed by the Circuit Court Clerks'
17 offices, including both Circuit and District Court support.

18 **1. Court of Justice**

19 **a. Court Operations and Administration**

	2016-17	2017-18
General Fund	219,548,200	217,113,500
Restricted Funds	37,654,500	37,152,900
Federal Funds	2,593,000	1,440,400
TOTAL	259,795,700	255,706,800

25 **(1) Family Court Judgeship:** Included in the above General Fund appropriation
26 is $369,500 in fiscal year 2016-2017 and $347,600 in fiscal year 2017-2018 for a family
27 court judgeship in the Sixth Circuit.

1 **(2) Funds Carry Forward:** Notwithstanding KRS 45.229, any unexpended
2 balance remaining at the close of fiscal year 2015-2016 shall not lapse and shall continue
3 into fiscal year 2016-2017, and any unexpended balance remaining at the close of fiscal
4 year 2016-2017 shall not lapse and shall continue into fiscal year 2017-2018.
5 **(3) Civil Filing Fees:** Pursuant to its authority, if the Supreme Court retains the
6 increase in civil filings fees that was effective in 2008, the additional income resulting
7 from the fee increases, not to exceed $5,000,000 in each fiscal year of the biennium, shall
8 be deposited into a trust and agency account for court operations. Any revenue generated
9 by these increases in excess of the $5,000,000 in each fiscal year of the biennium shall be
10 deposited into the General Fund.
11 **(4) Salary Structure:** Included in the above General Fund appropriation is
12 $714,000 in fiscal year 2016-2017 and $1,428,000 in fiscal year 2017-2018 to provide for
13 full pay parity for the Circuit Clerks with other elected county officials. The funding shall
14 be allocated as follows:
15 (a) A salary adjustment for Circuit Clerks shall be allocated in fiscal year 2016-
16 2017 to provide 75 percent pay parity for the Circuit Clerks with other elected county
17 officials;
18 (b) A salary adjustment for Circuit Clerks shall be allocated in fiscal year 2017-
19 2018 to provide 100 percent pay parity for the Circuit Clerks with other elected county
20 officials; and
21 (c) Salaries and wages for all judges shall not be increased during the 2016-2018
22 fiscal biennium.
23 **(5) Night Court in Jefferson County:** The Administrative Office of the Courts
24 shall continue the operations and current schedule of night court in Okolona and
25 Middletown in Jefferson County in fiscal year 2016-2017 and fiscal year 2017-2018.
26 **(6) Use of Settlement Proceeds:** Notwithstanding KRS 48.005(4), included in
27 the above Restricted Funds appropriation is $1,000,000 in each fiscal year for the

1 expansion and continuation of rocket docket prosecutions and $1,500,000 in each fiscal
2 year for the expansion and continuation of drug courts from settlement funds resulting
3 from the suit against Johnson & Johnson, et al.
4 **(7) Defined Calculations:** Included in the above General Fund appropriation is
5 $6,160,900 in fiscal year 2016-2017 and $7,264,000 in fiscal year 2017-2018 to provide
6 funds for the increase in the employer cost of health and life insurance and the employer
7 cost of retirement.
8 **b. Local Facilities Fund**

9	**2016-17**	**2017-18**
10 General Fund	114,531,500	115,445,600

11 **(1) Local Court Facility Compensation:** Included in the above appropriation are
12 moneys to compensate local units of government for providing court space and for costs
13 incurred in the development of local court facilities as defined in KRS Chapter 26A and
14 provided in Part II of this Act, and to perform all other acts required or authorized by
15 KRS Chapter 26A.
16 **(2) Funds Carry Forward:** Notwithstanding KRS 45.229, any unexpended
17 balance remaining at the close of fiscal year 2015-2016 shall not lapse and shall continue
18 into fiscal year 2016-2017, and any unexpended balance remaining at the close of fiscal
19 year 2016-2017 shall not lapse and shall be continued into fiscal year 2017-2018.
20 **(3) Fayette County Courthouse Use Allowance:** The use allowance for the
21 Fayette County Courthouse is contingent upon Short Street in Lexington, Kentucky
22 remaining open to traffic.
23 **c. Local Facilities Use Allowance Contingency Fund**

24	**2016-17**	**2017-18**
25 General Fund	-0-	-0-

26 **(1) Funds Carry Forward:** Notwithstanding KRS 45.229, any unexpended
27 balance remaining at the close of fiscal year 2015-2016 shall not lapse and shall continue

1 into fiscal year 2016-2017, and any unexpended balance remaining at the close of fiscal
2 year 2016-2017 shall not lapse and shall continue into fiscal year 2017-2018 to provide
3 for cost overruns in authorized court facilities projects not to exceed 15 percent of the use
4 allowance in accordance with KRS Chapter 26A.

5 **TOTAL - COURT OF JUSTICE**

	2016-17	2017-18
General Fund	334,079,700	332,559,100
Restricted Funds	37,654,500	37,152,900
Federal Funds	2,593,000	1,440,400
TOTAL	374,327,200	371,152,400

11 **2. Judicial Retirement System**

	2016-17	2017-18
General Fund	13,828,000	13,739,900

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

16 **(2) Pension Benefit Increase:** Notwithstanding KRS 21.405(5), no pension
17 benefit increase shall be granted to recipients of a retirement allowance under KRS
18 21.345 to 21.570 on July 1, 2016, or July 1, 2017.

19 **TOTAL - OPERATING BUDGET**

	2016-17	2017-18
General Fund	347,907,700	346,299,000
Restricted Funds	37,654,500	37,152,900
Federal Funds	2,593,000	1,440,400
TOTAL	388,155,200	384,892,300

25 **PART II**

26 **CAPITAL PROJECTS BUDGET**

27 **Budget Units**

1 **1. Local Facilities Fund**

2 **(1) Authorization of Capital Projects:** It is the intent of the General Assembly
3 that any capital project proposed by any state government entity, including the agencies
4 and subdivisions of the Court of Justice, shall be authorized by the General Assembly
5 prior to the project's financing and construction, in accordance with KRS 7A.010,
6 7A.120, 45.750, 45.760, 45.763, 45.765, and 48.110. Pursuant to KRS 45.760(1), the
7 amount allotted, from all sources, for expenditure on any capital project, including leases
8 as defined by KRS 45.750, shall not exceed the estimated cost as shown in this Act.

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

21 **2. Local Facilities Projects**

	Project	Project Scope
22		
23	**001.** Simpson	2,298,000
24	**002.** Mason	830,000

25 **(1) Simpson County:** General Fund support of $231,900 is contained in the
26 Local Facilities Fund budget in each fiscal year for use allowance payments.

27 **(2) Mason County:** General Fund support of $86,700 is contained in the Local

1 Facilities Fund budget in each fiscal year for use allowance payments.

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

9 **3. Lease Authorizations**

10 **001.** Franklin County - Lease - Court of Appeals

11 **002.** Jefferson County - Lease - Parking

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

14 **(2) Local Facilities Use Allowance Contingency Fund:** For any court facility
15 project which is occupied and use allowance funding is insufficient, the use allowance
16 payments shall be approved from the Local Facilities Use Allowance Contingency Fund.
17 If funds are not available in the Local Facilities Use Allowance Contingency Fund, the
18 Chief Justice may transfer funds from other Judicial Branch accounts in accordance with
19 Part III, General Provisions, Section 7. of this Act to make the necessary payments.

20 **TOTAL - JUDICIAL BRANCH BUDGET**

	2016-17	2017-18
21		
22 General Fund	347,907,700	346,299,000
23 Restricted Funds	37,654,500	37,152,900
24 Federal Funds	2,593,000	1,440,400
25 TOTAL	388,155,200	384,892,300

26 **PART III**

27 **GENERAL PROVISIONS**

1 **1. Expenditure Authority:** The Director of the Administrative Office of the
2 Courts, with the approval of the Chief Justice, may expend any of the funds appropriated
3 for court operations and administration in any lawful manner and for any legal purpose
4 that the Chief Justice shall authorize or direct. All expenditures shall conform with Part
5 III, General Provisions, Section 7. of this Act. No executive agency of state government
6 shall have the power to restrict or limit the expenditure of funds appropriated to the
7 Judicial Branch of government.

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

12 **3. Duplicate Appropriations:** Any appropriation item and sum in this Act and
13 in an appropriation provision in another Act of the 2016 Regular Session of the General
14 Assembly which constitutes a duplicate appropriation shall be governed by KRS 48.312.

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

18 **5. Carry Forward of Restricted and Federal Funds:** Notwithstanding KRS
19 45.229, any unexpended balance remaining in the Court's Restricted Funds accounts or
20 Federal Funds accounts at the close of the fiscal years ending June 30, 2016, and June 30,
21 2017, shall not lapse and shall continue into the next fiscal year.

22 **6. Final Budget Document:** The Chief Justice shall cause the Director of the
23 Administrative Office of the Courts to prepare a final budget document reflecting the
24 2016-2018 biennial budget of the Court of Justice. A copy shall be provided to the
25 Legislative Research Commission and an informational copy shall be furnished to the
26 Finance and Administration Cabinet within 60 days of the adjournment of the 2016
27 Regular Session of the General Assembly.

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

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

12 **9. Maximum Salary of Trial Commissioners:** Notwithstanding KRS
13 24A.100(3), funds are included to continue the statutory maximum salary of trial
14 commissioners as provided for in the Judicial Branch Budget Recommendation.

15 **10. Issuance of Paychecks to Employees:** Notwithstanding 101 KAR 2:095,
16 Section 10, the state payroll that would normally be scheduled to be paid on June 30,
17 2016, and June 30, 2017, shall not be issued prior to July 1, 2016, and July 1, 2017.

18 **PART IV**

19 **FUNDS TRANSFER**

20 The Judicial Branch shall transfer $11,758,100 to the General Fund in each fiscal
21 year.

22 **PART V**

23 **BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN**

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

Speaker of House of Representatives

President of Senate

Attest: Sean E. Burgin
Chief Clerk of House of Representatives

Approved _____
Governor

Date _____