

2005 MAY -5 A 11: 56

IN THE SUPREME COURT OF THE STATE OF KANSAS

CAROL G. GREEN  
CLERK APPELLATE COURTS

**Re: Kansas Judicial Branch Fiscal Year 2006 Emergency Surcharge**

WHEREAS, the Judicial Branch's FY 2003 maintenance budget was cut by approximately \$3.5 million; and

WHEREAS, it was determined that, without restoration of the maintenance budget cut, the Judicial Branch could not perform its constitutional and statutory duties; and

WHEREAS, in response to this funding crisis, the Supreme Court established the Kansas Judicial Branch Fiscal Year 2003 Emergency Surcharge, as set forth in 2002 SC 13. Because the maintenance budget continued to be underfunded in 2004, the Supreme Court was forced to extend the Judicial Branch Emergency Surcharge to Fiscal Year 2004, as set forth in 2003 SC 51,;and

WHEREAS, the \$3.5 million shortfall was continued into the Judicial Branch's FY 2005 budget. Both the Senate Ways and Means and House Appropriations committees deleted approximately \$3.5 million from the FY 2005 Judicial Branch budget, stating that the recommendation would "force the Judicial Branch either to sustain reduction in funding from its current service budget or consider continuing the surcharge." The Judicial Branch FY 2004 Emergency Surcharge was extended through FY 2005, as set forth in 2004 SC 30; and

WHEREAS, the 2005 Legislature deleted approximately \$3.6 million from the Judicial Branch State General Fund budget, noting that this was the amount generated by the Judicial Branch surcharge;

IT IS THEREFORE ORDERED that the Judicial Branch FY 2005 Emergency Surcharge be extended through FY 2006, in accordance with the attached schedule as amended, effective July 1, 2005.

IT IS FURTHER ORDERED that the following terms and conditions shall apply:

1. The district and appellate courts may waive all or part of the Emergency Surcharge set forth by this Order on motion of the party to be charged, and upon a showing that such surcharge will result in an undue hardship to the petitioning party;

2. The district and appellate court clerks shall monthly remit surcharge funds to the state treasurer. Upon receipt of such remittance the state treasurer shall deposit the entire amount thereof in the special fund known as the Judicial Branch Emergency Surcharge Fund, which is hereby established by this Order, and which shall not be a part of the state treasury. This fund shall be used only for Judicial Branch expenditures. All expenditures made from such fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the Chief Justice of the Supreme Court or her designee;

3. Notwithstanding the provisions of Supreme Court Administrative Order No. 41 or local rules pertaining to the order of payment in criminal cases, funds received in criminal cases shall first be credited to the Judicial Branch Emergency Surcharge Fund in the amount required, then shall be credited to other funds or entities as Supreme Court Administrative Order No. 41 or local rule directs;

4. In criminal and civil cases where a party is ordered to pay court costs, the Judicial Branch Emergency Surcharge shall be considered a portion of such court costs;

5. The Emergency Surcharge is not a service or operational charge and funds will be utilized solely to make up the deficit in the maintenance budget; and

6. This order shall be effective July 1, 2005, and shall continue until June 30, 2006, unless rescinded, amended, or extended by the Kansas Supreme Court.

BY ORDER OF THE COURT the 4<sup>th</sup> day of May, 2005.

  
Kay McFarland  
Chief Justice

Attachment