

KCC Alert



Kentucky Conservation Committee, P.O. Box 1152, Frankfort, KY 40602

502-875-0909

Bad Brownfields Bill Takes Flight

By the time this reaches you a bill to weaken the cleanup requirements for contaminated lands will likely be passed the Senate and in the House. SB 2 is expected to fly through the Senate with the backing of industry and city officials from Louisville.

The intent of Brownfields legislation is to promote the voluntary cleanup of old industrial lands by relieving the remediator (i.e. developer) of the threat of future law suits. It is assumed that the polluter is no longer around to clean it up.

SB 2 has serious problems as outlined by Tom FitzGerald's analysis in the Jan. 24 Alert. Since then the Brownfields Working Group (BWG), an organization associated with the Louisville Development Authority, has attempted to counter this criticism by widely distributing a written response that fails to address the major underlying flaw. The process established by this bill is more concerned with following a pre-agreed upon work plan than in achieving actual remediation results. This bill lacks key provisions to make sure the contamination is either cleaned up or properly controlled.

Mr. FitzGerald participated in negotiations during the last session that produced a consensus bill that was a few words shy of complete agreement from all sides. Instead of starting from that point, SB 2 throws out that work, cutting off valuable input from the environmental community.

There is still a chance that the House could revive the bill from last session and pass a more protective law. Quick action will be required (see the "To Do List" on this page).

KCC To Do List:

- ❑ SB 2. Tell your Representative this bill does not protect human health and environment. Ask for the Brownfields bill negotiated last session.
- ❑ SB 48. Tell your Senator not to eliminate Vehicle Emissions Testing.
- ❑ SB 60. Ask your Senator to oppose. The Governor needs to be able to act to protect public health.
- ❑ HB 176. Ask the Members of House Ag and Small Business to oppose. Kentuckians need protection from the abuses of factory farms.
- ❑ HB 183 and 237. Ask your Representative to support mandatory garbage collection and that you prefer 183 over 237.

Solid Waste Issues Getting Much Attention

Litter, illegal dumps, recycling and garbage collection are the focus of seven bills introduced so far this session. The Governor's much anticipated solid waste bill was finally introduced last week as HB237. This bill requires curbside or end of driveway garbage collection programs in every county unless the county can demonstrate that it has the illegal dump situation under control. It also provides a means for counties to collect the fees.

Competing with this bill is HB 183 introduced by Rep. Greg Stumbo. This bill not only mandates garbage pick-up but creates a 0.25 cent pre-disposal fee on disposable containers and fast food packaging to help pay for litter and dump clean-ups. Since this would be considered a tax by most legislators, the bill is given poor chance of passage.

Back from last session are Rep. Stumbo's two bills dealing with container deposits. HB 2 is his comprehensive solid waste bill that includes container deposits, mandatory garbage collection, litter clean up and pre-disposal fees on fast food packing. This bill is not given any chance even by Rep. Stumbo. His other bottle bill, however, is already out of committee and may be passed by the House before you receive this.

HB 9 is Rep. Stumbo's constitutional amendment to allow a public referendum on a bottle bill. It passed the House last session but died in the Senate. It has a good chance of passing the House again but its chances in the Senate are less certain. Senators who do not favor turning Kentucky into a referendum state like California and Oregon are likely to attempt to kill it. Messages to Senators will be helpful.

HB 57, from Rep. Cornett, appropriates \$2.5 million in matching funds to support education on recycling, waste reduction and litter prevention. Matching funds could come as work in kind from the counties. This bill deserves support.

SB 122 modifies existing anti-litter laws and redirects the fines from the general fund into litter prevention and cleanup programs.

SB 56 is the industry's answer to waste cleanup. It creates a 19 member KY-CLEAN board in the Transportation Cabinet to oversee anti-litter education programs. This would create the illusion of doing something and accomplish nothing. KCC rejects the notion that anti-litter campaigns are an effective way to address solid waste issues.

Tri-Modal Air Park Would Be Boosted by HB 238

A controversial transportation project combining airplanes, trains, and trucks adjacent to Mammoth Cave National Park situated over sink holes and karst would receive a financing boost from HB 238. This bill would allow the funneling of tax revenues generated by the project back into the development without requiring environmental impact, economic viability studies or imposing any accountability conditions.

Key Committee Assignments

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Several Bills Attack Protections from Factory Farms

Legislators who disagree with the Governor's attempts to control the environmental impacts of large animal factories known as Concentrated Animal Feeding Operations (CAFOs) have launched multiple avenues of attack on the regulations.

The most direct attack is HB 176 which attempts to prevent the administration from issuing regulations dictating how close to property lines or neighbors these foul and intrusive operations can be located. It also relieves the "integrator" of any environmental responsibility, placing that solely on the operator. The integrator is a large corporation like a Tyson or Perdue. The integrator owns the animals, dictates what the animals are fed, and stipulates how the animals are cared for, but relinquishes responsibility for any of the problems, pollution, or dead animals.

A key provision of this bill contains a "no more stringent than" clause which makes it illegal for the state to impose any restrictions tighter than EPA guidelines, leaving the state at the mercy of national politics. This sets up a great irony as many of the legislators pushing this provision would never accept the Federal imposition over states' discretion.

SB 60 works more subtly, limiting executive branch power to impose emergency regulations except in cases where there is "imminent danger to public health, safety, welfare or property" and then only if the imminent danger could have been foreseen at least three months prior to filing the regulation.

The Environmental Protection Cabinet is using "emergency" regulations to impose modest controls on CAFO's. Emergency regulations must be approved by the interim legislative committees responsible for the area of regulation or by the General Assembly else they die at the end of the next legislative session. Since neither is willing to impose regulation on agriculture, the state must continually issue new "emergency regulations."

SB 73 takes the same tactic of limiting the executive branch's ability to file emergency regulations. This impacts not only the CAFO situation, but the general powers of the Governor to respond to other needs until a crisis is at hand.

HB 20 presents another threat by defining the term "agriculture" to include CAFOs. This bill needs to be reworded so the impact of this does not spill over into other law which exempts agriculture from water withdrawal permits and other environmental controls. Quick action is needed since it is already on the House Floor. (See To-Do List).

Mark Your Calendars...

A concert to benefit The Kentucky Resources Council will be held April 22, 7-9:30 p.m. at the Kentucky Theater, 651 South Fourth Street. Louisville. 502/948-6885 for info.

Contacting Your Legislators

Who are my legislators? You can look up your legislators on the web at www.lrc.state.ky.us/whoswho/whoswho.htm or you can call your local county clerk. All they need is your address.

How do I communicate with them? There are several ways to communicate.

The legislative message line will get you an operator who will write down a message for you, no questions asked. Use the number listed under Legislative Message line in our phone number box. The number is frequently busy. Early mornings seem to work best.

You can send a fax, the number is listed here. Faxes can be sent to multiple legislators, or whole committees (all members of the committee must be listed individually).

Many legislators have email. They can be found from the web address listed above. Some legislators respond, some do not.

If the issue is not urgent, regular mail can be sent to The Capitol Annex, Frankfort, KY 40601.

What do I say? Your message can be as simple as "Please support bill xyz." You don't have to be an expert. Personal experiences that relate can be effective.

Legislative Information On the Internet

The Bill summaries, status, the full text of all filed bills, the legislative calendar, the orders of the day, legislators' email addresses, and more (updated daily) are available on the Legislative Research Commission's Web Site. <http://www.lrc.state.ky.us/home.htm>

Important Legislative Phone Numbers

Legislator Message Line: 1-800-372-7181
 To talk to a legislator: 1-502-564-8100
 Bill Status Line: 1-877-765-0447
 Committee Calendar Line: 1-800-633-9650
 Governor Paul Patton: 502-564-2611
 Secretary James Bickford: 502-564-3350
 Legislator Fax line: 502-564-6543

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2000/2001 KCC Lobbyists

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Bill Summaries and KCC Position

Bill No	Position	Sponsor	Summary	Status
HB 2	Strong Support	Stumbo	Comprehensive solid waste bill known as HB 1 from 2000. Includes mandatory garbage collection and container deposits.	House Nat. Resources & Env.
HB 9	Strong Support	Stumbo	Constitutional Amendment to allow voter referendum on a bottle bill.	House Posted for passage in regular orders of day, Feb 12.
HB 20	Strong Oppose	Belcher	Defines "agriculture", "aquaculture", "horticulture", "livestock", "poultry", "timber". Needs clarification to prevent extending exemptions to environmental protections.	House Posted for passage in regular orders of day, Feb 12.
HB 27	Strong Oppose	Marcotte	Exempts cars less than 5 years old from Vehicle Emissions Tests.	House Nat. Resources & Env.
HB 55	Strong Support	Wayne	Training requirements for Planning boards, staff, and Boards of adjustment.	House Posted for passage in regular orders of day, Feb 12
HB 57	Support	Cornett	Approp. \$2.5 million to recycling, waste reduction, litter prevention.	House Nat. Resources & Env Posting waived.
HB 100	Support	Barrows	Creates an industrial hemp research program.	House Posted for passage in regular orders of day, Feb 12
HB 103	Strong Oppose	Damron	Allow civil engineers to inspect on-site sewage disposal systems in place of Health Department	House 2 nd reading, to Rules
HB 104	Investigate	Bather	Brownfields redevelopment program (volunteer clean-up).	House Nat. Resources & Env
HB 129	Oppose	Yonts	Raise speed limit to 70 on Interstates and parkways, to 35 on residential.	House Transportation
HB 134	Support w/Amend	Fischer	Ban the use of MTBE in gasoline. Needs to be phased out to assure replacements are available.	House Tourism Development & Energy
HB 136	Strong Oppose	Adams	"Dumb growth." Allow a water utility to expand into another's geography if it has no formal plans to extend service within a year.	Withdrawn
HB 139	Support	Richards	Require monthly ethics reports by lobbyists in odd year sessions.	Posted House State Government
HB 143	Support	Yonts	Allows data from voluntary Env. Audits to be used in criminal cases.	House Nat. Resources & Env.
HB 146	Support	Palumbo	Require monthly ethics reports by lobbyists in odd year sessions.	House State Government
HB 176	Strong Oppose	Cherry	Factory Farms: Outlaw integrator liability and setbacks, no more stringent than Fed Regs	House Ag & Small Business
HB 183	Support	Stumbo	Mandatory garbage collection and litter/dump cleanups, predisposal fee	House Approp & Revenue
HB 193	Support	Adams	Notify neighbors of cell towers where no planning and zoning exists.	House Tourism Development & Energy
HB 207	Support	Wayne	Reporting requirements for companies applying for assistance from Economic Development Authority	House Economic Development
HB 229	Support	Stumbo	1% tax on pet food to support animal control and care fund	House Approp & Revenue
HB 237	Support	Clark	Governor's mandatory garbage collection proposal Prefer HB 2 or 183	Posted Nat. Resources & Env.
HB 238	Strong Oppose	Wilkey	Creates means for economic development projects to get back part of property tax revenue increase created by project.	House Economic Developmnt
HB 242	Investigate	Stumbo	Coal revitalization act	Uncommitted
HB 245	Support	Marcotte	Transportation plans for mining (except coal). Should include coal.	Uncommitted
SR 1	Support	Shaughnessy	Creates task force to make a plan to protect Black Acre State Nature Preserve from surrounding development.	Sen. Ag & Natural Resources.
SB 1	Support w/amendments	Williams	Limit Campaign Contributions to Gubernatorial races by companies doing business with the state.	Senate Posted for passage in regular orders of day
SB 2	Strong Oppose	Leeper	Brownfields redevelopment plan. Not protective enough.	Sen. posted for regular orders
SB 4	Support	Leeper	Brownfields redevelopment plan negotiated last session.	Withdrawn
SB 47	Monitor	Sanders	Extends economic assistance to secondary wood products industry.	Passed Senate
SB 48	Strong Oppose	Seum	Eliminate vehicle emission testing programs by 2003.	Sen. Ag. & Nat. Resources In Committee Feb 13
SB 51	Support	Casebier	All state owned passenger vehicles must be 6 cylinders or less.	Senate Transportation
SB 56	Oppose	Harris	Establish Anti-litter program, "KY-Clean" Board. Window dressing, better to fund Environmental Education Master Plan. Support HB 2.	Senate Posted for passage in regular orders of day Feb 12
SB 60	Strong Oppose	Williams	Limits form & content of executive orders. Limits the use of emergency regs to protect the environment.	Senate Posted for passage in regular orders of day.
SB 72	Oppose	Seum	Ban MTBE in motor fuels. Needs phase out plan.	Sen Ag & Natural Resources
SB 73	Oppose	Roeding	Admin. Reg. Changes. Limit use of emergency regs.	Sen State & Local Gov.
SB 97	Support	Mongiardo	Create 20 ft buffer zone between ag land and new suburbs	Uncommitted
SB 122	Support	Moore	Criminal littering, directs fines to litter clean up.	Uncommitted

*The Earth Needs a Friend in Frankfort***Please check all that apply:**

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Address: _____ My state senator is : _____

_____ Home phone: (_____) _____ - _____

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Ways I will help KCC:

Telephone Tree Writing letters Monitoring Interim Committees Lobbying during the session

Because one of KCC's main activities is influencing legislation, contributions are not tax deductible. Please send your check and membership information to: KCC, P.O. Box 1152, Frankfort, KY 40602. For more information call: 502-875-0909.

Internet Access of the Alert

Sierra Club graciously posts the Alert on their web site, go to <http://www.sierraclub.org/chapters/ky/>

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