

# KCC Alert



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

502-875-0909

## Power Plant Siting Bills to Pass Each Other in the Dark?

Both chambers have now passed separate “merchant” power plant siting bills. Resolution of their differences is uncertain. Both bills aim to reduce the impact from an onslaught of applications to build power plants that ship electricity out of state, leaving Kentucky with the air and water pollution.

This past week SB257 passed the Senate with several floor amendments.

Amendments to SB257 allow a federal EIS to be used in lieu of a Statement of Environmental Compatibility; require assessing the cumulative impacts of a plant; redefine commencement of construction to mean the physical placement/assembly/installation of materials (verses land clearing or ceremonial ground breaking); and change the definition of a merchant plant to exclude co-generation facilities and include plants selling 100% of their power to regulated utilities.

The House passed the much weaker HB540 earlier in the session. A virtual standoff could result since there is no requirement for a conference committee to resolve the differences. With one week left in the session, each bill could die in the other chamber.

Calls are needed to Senate and House Leadership asking them to craft a compromise solution.

### KCC To Do List:

- ❑ Ask your Senator to reinstate the House Provisions in HB174. (see “...Solid Waste...” pg 1)
- ❑ Ask House to get behind SB257 (Especially Rep Riggs, Richards, Barrows & Stumbo) (see “Power Plant...” pg 1)
- ❑ Ask Senate Appropriation and Revenue Committee members to keep outlaw coal companies in check, (see “Budget...” pg 3).
- ❑ Ask your State Senator and Sens. Williams and Kelly to oppose HB618, limits to Vehicle Emissions Testing to old cars. (See “Emissions...” pg 2)

## Senate to Vote on Solid Waste Bill, HB 174 Senate Committee Guts Bill, Conference Battle Likely

HB 174, Greg Stumbo’s solid waste bill that had the governor’s backing, cleared the Senate Agriculture and Natural Resources Committee March 21. As expected, a Senate committee substitution gutted many of the key provisions.

Gone is the ½ cent fee on fast food cups and other containers. Gone is the funding for the Environmental Education Master Plan.. Gone is reliable funding for the cleanup of illegal dumps and roadside litter. Gone is the program to acquire parkland and natural areas.

What remains is the \$1/ton landfill tipping fee. This money will fund a \$45 million bond sale to pay for the proper closure of old landfills and cleanup of illegal dumps. Unfortunately, it won’t be enough money in light of the current backlog of improperly closed landfills.

Under the committee substitution, a “Certified Clean Counties” program would be established to cleanup illegal dumps and litter. Incentives to join the program would be paid for with highway contingency funds. The amount of funds available is unspecified, variable, and at the determination of the Transportation Cabinet.

The full Senate could vote on the bill as early as Monday. If it passes, the differences with the House passed version will have to be worked out in conference committee. House Majority Leader Greg Stumbo, the bill’s sponsor, is likely to be a principle negotiator.

The Senate action is consistent with a general trend in the legislature to pay more lip service to solid waste issues than to generate real results.

Contact Senators and Representatives and ask for the original HB174 to be reinstated with the original funding.

## Radio Campaign Supports HB174

In an unusual move, individuals and organizations supporting passage of HB174 have contributed money toward a media campaign on the bill’s behalf. Money collected has been used to launch a radio advertising campaign in support of HB174. Ads began on March 18 and ran for one week of “drive time” statewide. KCC, a 501c4 corporation is the fiscal agent for the campaign, a first for the organization. Contributions are still needed to help pay for the campaign. They can be sent to KCC, PO Box 1174 Frankfort, KY 40602. Indicate that the contribution is for the HB174 campaign.

### Key Committee Assignments

#### Senate Agriculture and Natural Resources

Ernie Harris, **Chair** (R), Vernie McGaha, **Vice Chair** (R), Paul Herron Jr (D), Daniel Kelly (R), Robert Leeper (R), Virgil Moore (R), Joey Pendleton (D), Ernesto Scorsone (D), Tim Shaughnessy (D), Elizabeth Tori (R), Ed Worley (D)

#### Senate State & Local Government

Albert Robinson, **Chair** (R), Alice Kerr, **Vice Chair** (R), Walter Blevins (D), Charlie Borders (R), David Boswell (D), Ernie Harris (R), Ed Miller (D), Ernesto Scorsone (D), Elizabeth Tori (R), Johnny Turner (D), David L. Williams (R)

#### House Agriculture and Small Business

Roger Thomas, **Chair** (D), Royce Adams, **Vice Chair** (D), John Arnold Jr., **Vice Chair** (D), William Scott, **Vice Chair** (D), Ken Upchurch, **Vice Chair** (R), Adrian Arnold (D), Sheldon Baugh (R), James Bruce (D), Dwight Butler (R), Mike Cherry (D), Phillip Childers (D), Jack Coleman (D), James Comer (R), Charlie Hoffman (D), Thomas McKee (D), Fred Nesler (D), Don Pasley (D), Dottie Sims (D), Gary Tapp (R), Mark Treesh (R), Tommy Turner (R)

#### House Appropriations and Revenue

Harry Moberly, **Chair** (D), Mike Cherry, **Vice Chair** (D), Robert Damron, **Vice Chair** (D), Bob DeWeese, **Vice Chair** (R), Bob Heleringer, **Vice Chair** (R), Joni Jenkins, **Vice Chair** (D), Robin L. Webb, **Vice Chair** (D), Royce Adams (D), Rocky Adkins (D), Joe Barrows (D), Dwight Butler (R), Jim Callahan (D), Larry Clark (D), Jack Coleman (D), Barbara White Colter (R), Jesse Crenshaw (D), Danny Ford (R), Jimmie Lee (D), Mary Lou Marzian (D), Thomas McKee (D), Lonnie Napier (R), Fred Nesler (D), Stephen Nunn (R), Charles Siler (R), John Will Stacy (D), Mark Treesh (R), John Vincent (R), Jim Wayne (D), Rob Wilkey (D)

#### House Natural Resources and Environment

James Gooch, **Chair** (D), Woody Allen, **Vice Chair** (R), Phillip Childers, **Vice Chair** (D), Keith Hall, **Vice Chair** (D), Rocky Adkins (D), Ira Branham (D), Scott Brinkman (R), Hubert Collins (D), Howard Cornett (R), Don Pasley (D), Tanya Pullin (D), Marie Rader (R), Jim Stewart (R), Johnnie Turner (R), Robin L. Webb (D), Brent Yonts (D)

KCC thanks **Plan Graphics**, Frankfort, KY for *KCC Alert* production assistance.

## Emission Testing Ban Sputters Forward Against Air Quality Board Recommendation

Despite protest from the Jefferson County Air Pollution Control District, the state Transportation Cabinet, the Natural Resources Cabinet and the American Lung Association, the Senate State and Local Government Committee voted to end Jefferson County's Vehicle Emission Testing (VET) Program. Now on the Senate floor, HB618 would eliminate the VET program in 2003 and allow its reinstatement only if Jefferson County is determined to be in "non-attainment."

Facilitating the passage of the bill was an abrupt change of position by the Jefferson County Chamber of Commerce (so-called Greater Louisville Inc. or GLI). Jefferson County and the major industries that made significant reductions in ozone precursors in order to meet attainment goals were ill-served by this move.

HB618 will cause a worsening of air quality and will shift the costs of any further reductions needed to maintain compliance to the businesses that generate ozone precursors, even though automobiles are a major source of the problem.

In Louisville, the 23 million miles per day driven by over 400,000 vehicles generates 40% of the ozone pollution and 80% of the carbon monoxide pollution. Vehicle pollution is also a major source of particulate pollution.

Ending the VET program will add 6.5 million pounds of ozone-forming compounds, 2.5 million pounds of NOx and 70 million pounds of carbon monoxide, annually, back in to Louisville's air

The bill could also prevent new industries from locating in the region. Louisville and surrounding areas may soon be designated as non-attainment for fine particulate matter (PM 2.5). Unfortunately, the bill would not allow reinstatement of a VET program in such a case, requiring industries to install further controls at greater cost.

Leave a message for your state Senator and Senate leaders David Williams and Dan Kelly to oppose this bill.

*Bill analysis by Tom FitzGerald*

## The End Is Near!

March 29 is the last day to pass new bills. Any bills not already passed by one Chamber do not have a chance of making through the other.

### 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](http://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. Call 8:00 AM to 11:00 pm.

You can send a fax, the number is listed here. A fax can be sent to multiple legislators, you must list all names individually.

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

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: 1-800-776-9158  
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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### 2002 KCC Lobbyists

**Wade Helm**, 502-875-0909 **Dick Shore**, 888-44J-MUIR

## Budget Provision Invites Back Outlaw Coal Companies

Lobbyists for the coal industry are trying to have Senator Robert Stivers remove budget language from the Executive Branch Budget Memorandum that would stop a subterfuge used by coal companies to escape the law. Such language has been included in the budget since 1998.

Unless the language is reinstated, coal companies in violation reclamation laws would be able to obtain operating permits by opening for business under a new name.

The necessary language authorizes the Natural Resources and Environmental Protection Cabinet to block new mining permits to applicants who are owned or controlled by outlaw coal companies.

Removal of the budget language will invite open abuse of state mining laws. Individuals now barred from new permits because of unabated violations will be able to reenter the marketplace. Companies that have left coal field communities and the public saddled with unreclaimed mines are allowed back into the business to repeat their unlawful behavior.

The retention of the House budget language assures that the legitimate coal industry does not have to compete with those who shirk their reclamation responsibility.

Contact members of the Senate Appropriations and Revenue Committee. Ask them to retain the language blocking new mine permits up and down the corporate chain.

*Bill analysis by Tome FitzGerald*

## Smart Growth Bill Shrinks Committee Removes Financial Incentives

HB 600, the Governor's smart growth proposal, emerged from committee March 21 a mere shadow of its former self and could be voted on the floor as early as March 25.

The bill was changed to remove any mention of "Smart Growth." The tax credits for redevelopment, reuse, and renewal of older and rundown properties were removed.

The bill would now create a State Planning Committee, stipulate that state agencies are to practice sound planning. Most curiously, it would create an extended state planning committee to assess the impact of major projects on agricultural land use. This contradicts an Executive Order issued earlier this year abolishing a similar committee, and it repairs one of the major flaws in the original bill.

## Bill to Eliminate Straight Pipes Advances

A bill that should help clean up Kentucky streams and rivers has passed the House and now heads to the Senate.

HB854 makes the use of straight pipes, privies, cesspools, and sinkholes for sewage unlawful. Anyone without access to sewers must maintain an approved on-site system. Properties with an occupied building and access to sewers must connect within 90 days or at time of construction, whichever is sooner. It also prohibits storm water connections to sewers, in an effort to prevent the sewer overflows that occur in older combined systems.

A House floor amendment excludes any occupied building that has a Health Department approved on-site septic system. In a bit of irony, the Commissioner of the State Health Department last year established as policy that septic tank approvals were not a priority of the Department, since they posed only a "minor" health risk. If the bill passes the Senate, the Department can expect to see a flurry of permit applications.

## Water Quality Plans "Hush, Hush"

HB367, a bill to keep Agricultural Water Quality plans out of view of the public has emerged from the Senate Agriculture and Natural Resources Committee. It is now waiting approval by the full Senate. The bill allows Agricultural Water Quality plans to be reviewed only by the Agricultural Water Quality Board, but they are will not be open to inspection by the public. Under this bill oversight of compliance with the Agriculture. Water Quality Act is left strictly to state agencies

## Pine Mountain Trail State Park Near Path to Governor's Office

HB556 is waiting approval by the full Senate. It would create the state's longest and narrowest state Park. If enacted, a roughly 1000ft corridor along the crest of Pine Mountain from Breaks/Interstate Park to Cumberland Gap would be designated as a future state park with a hiking trail for non-motorized use only. Access points and appropriate spur trails would also be established.

## Bill Summaries and KCC Position

Bill No	Position	Sponsor	Summary	Status
HJR24	Monitor	Moberly	Create a subcommittee to study the production of ethanol before 2003.	Sen. Ag & Natural Resources
HCR109	Monitor	Barrows	Encourage KY Heritage Com. to log rock fences that merit preserving	Sen. Ag & Natural Resources
HJR139	Support	Bather	Stop issuing env. permits in west Louisville until 9/02, do risk assess.	House Nat Resources & Env.
HCR161	Support	Pasley, Comer	Est. off-road Vehicle Task Force to study use on public & private land	Senate
HB28	Strong Support	L.Clark	Require counties cleanup all open dumps or implement mandatory curbside waste collection system by January 2004,	House Natural Resources and Environment
HB40	Support	Tapp, Arnold	Require federally mandated sulfur reductions be accomplished by blending at least 2% biodiesel; study biodiesel during 2005 interim	Senate Ag & Nat, Resources
HB46	Monitor	Marcotte	Exempt cars 4 model years and younger from VET testing	House Transportation
HB48	Support	Riggs	Require hearings on local indebtedness & set criteria for denial of bond issue, replace appeal to State Debt Comm. w/ appeals to Circuit Crt	Senate 2 <sup>nd</sup> reading
HB64	Support	Damron	Adopt Interstate Wildlife Violator Compact: reciprocal agreements to enforce hunting violations and revoking hunting privileges	House Elections, Const Amend. & Intergov. Affairs
HB75	Oppose	Belcher	Remove sewage plants owned by fiscal courts from PSC control	Senate 2 <sup>st</sup> reading
HB118	Support	Marcotte	Persons applying for a permit to mine any mineral except coal to obtain an ordinance from county fiscal court that states that county road conditions will not be degraded by the increased truck traffic	House Natural Resources and Environment
HB137	Oppose	Gooch	Amend constitution to exempt unmined minerals from property tax.	House Elections and Const.
<b>HB174</b>	<b>Strong Support</b>	<b>Stumbo, et al</b>	<b>½ cent fee on beverage containers plus \$1/ton tipping fee to fund dump cleanup, dump closures, Env. Ed. Master Plan, roadside cleanup, anti-litter program, cnty solid waste coordinators. Cnties must have universal collection or all dumps closed to get \$\$.</b>	<b>Senate floor 1<sup>st</sup> reading,</b>
HB214	Support	Riggs	Expands energy efficiency requirements to leased buildings. Creates revolving loan fund to pay for efficiency improvements. Allows state to enter into guaranteed energy saving contracts (see SB61)	House State Government
HB 244	Strong Support	Wilkey	Extends sunset of the hazardous waste assessment fund used for superfund cleanup and pollution prevention assistance to 2004.	Signed by Governor
HB275	Oppose	Gooch	Reallocates 5% to 8% of the all NOx credits to new power plants in 2004, with 5% thereafter. 10% set aside for "efficient energy" sources.	House Natural Resources and Environment
HB317	Monitor	Kerr	Exclude farm trucks from vehicle emission control programs	Posted House Local Gov.
HB319	Support	Arnold et. al.	Require state agencies give KY-grown & labeled food 5% preference.	Senate Ag & Nat. Resources
HB323	Strong Support	Stumbo	Amend Constitution to allow a referendum on container deposits.	House Elections, etc.
HB350	Support	Thomas, et al	Establish organic Ag certification program	Recommitted House A&R
HB355	Strong Support	Wayne	Voluntary public funding for General Assembly candidates See SB284	House Elections, etc
HB367	Strong Oppose	Gooch, et.al.	Documents filed under the Ag. Water Quality Act to be confidential, Ag Water Quality Authority exempt.	Senate floor, 2 <sup>st</sup> reading
HB405	Oppose	Turner, et. al.	Construction related coal mining under 5000 tons where coal or proceeds are donated to nonprofit orgs exempted from permitting.	Senate Ag & Natural Resources
HB408		Gooch	Redefinition: bidders for utility coal contracts report coal and unmined minerals taxes to utility. PSC to deduct underpaid taxes from rates.	Recommitted to House Nat Res & Env.
HB422	Strong Support	Pasely, et.al.	Extend waste tire fee to July 2006 and allow a tire amnesty program	Signed by Governor
HB460	Support	Bratcher	Allow monetary claims for victims of airport noise	Posted House Judiciary
HB465	Strong Support	Wayne, et al.	Require local Gov develop land use plans, define areas for future growth, prohibit the extension of sewer/water lines outside them	Failed in House Local Gov.
<b>HB496</b>	<b>Strong Oppose</b>	<b>Gooch</b>	<b>Calls for preliminary notice of alleged environmental violations and 45 days for said violation to be remedied</b>	<b>Recommitted to House Approp. &amp; Revenue</b>
HB507	Under Review	Moberly, et. al.	State Budget (see SB144)	Senate Floor 2 <sup>nd</sup> reading
HB540	Support	Draud	Est. KY State Board to regulate the siting of merchant power plants and transmission facilities. <b>Needs strengthening.</b>	Senate Ag & Nat Resources
HB542	Monitor	Yonts	Income tax credits for the value-added hardwood products industry	Senate Approp & Revenue
HB556	Support	Hall	Establish the Pine Mountain Trail State Park (See SB158)	Senate Floor, 1 <sup>st</sup> reading
HB575	Oppose	Brinkman	Allows contamination of recyclable plastic & harm recycling efforts.	Posted House Nat Res & Env
HB586	Support	Wilkey	Require reporting of personal contributions to campaigns	Senate State & Local Gov.
HB598	Support	Riggs, et al	Transfer regulation of the siting of cell phone towers from the PSC to any county with zoning and planning	Senate Ag & Natural Resources
<b>HB600</b>	<b>Strong Support</b>	<b>Barrows</b>	<b>State government to follow good planning principles, help local gov w/planning.</b>	<b>House Posted for Passage 3/25</b>

HB606	Support	Callahan, et.al.	Tax credit for expenses paid to rehabilitate a certified historic structure.	House Approp & Revenue
HB618	Oppose	Clark, et al	VET program limited to cars 6 years old or older to be tested on a biennial basis; require fee increases to be limited to inflation rate, eliminate VET testing by Nov 2003 if air quality in attainment	Senate Posted for passage 3/25
HB646	Oppose	Smith, et.al.	Excess coal severance and processing taxes to fund grants to coal counties for water and sewer lines and sewage treatment facilities.	House Appropriation and Revenue
HB654	Support	Denham, et.al.	Create an office of Agritourism to encourage visitors to working farms	Senate Recommended to A&R
HB694	Support	Stewart	Allow county solid waste coordinators to enforce litter laws	Posted House Local Gov.
HB708	Monitor	Thomas, Bruce	Ban MTBE by January 1, 2006; encourage reformulated gas to replace MTBE with ethanol by that date	Senate Ag & Natural Resources
HB714	Oppose	Bowling, et.al.	Limit the Kentucky River Authority's authority to assess water use fees	Senate Ag & Natural Res.
HB738	Strong Support	Gooch	Eliminate exemption of power plants from water withdrawal permitting	Recommended House Approp & Revenue
HB739	Monitor	Rasche	Exempt joint sewer agencies from a uniform rate requirement when local conditions warrant for a period not exceeding ten years	Senate Ag & Natural Resources
HB752	Monitor	Branham	Authorize PSC to designate long haul water lines that can be tapped in case of emergency.	House Tourism Development and Energy
HB790	Oppose	Gooch	PSC to encourage clean coal & discourage natural gas for new power plants in" certificate of need " deliberations.	House Tourism Development and Energy
HB791	Strong Oppose	Geveden	Abolishes the Interagency Farmland Advisory Committee that reviews any project converting over 50 acres of farmland	Posted House State Gov.
HB797	Support	Barrows	Income tax credit of 1/2 property value for land given to an eligible conservation agency, Max \$100,000/person and \$2 million total/year	House Appropriation and Revenue
HB798	Oppose	Childers, Hall, Smith, Cornett	Allow coal operators to pay into a fund for stream mitigation in lieu of physical mitigation	Senate Floor 1 <sup>st</sup> reading
HB809	Monitor	Childers, Turner	Allow coal operator under an NOV for imminent danger to gain access to lands necessary to abate problem, and if not imminent to gain access after a property appraisal is conducted	Senate Floor 2 <sup>nd</sup> Reading
HB841	Oppose	Pullin, Palumbo	Permit all agencies regulating small businesses to reduce or waiver civil penalties	Recommended to House Approp & Revenue
HB854	Support w/ amend	Branham	Require that all properties with an occupied building maintain an onsite sewer system or be connected to a sewer system. Imposes penalties.	Senate
HB864	Support	Moberly	Tax on merchant power plants.	House floor 2 <sup>st</sup> Reading
HB871	Monitor	Webb	Constitution Amend. ensuring the right to hunt, fish, and harvest game.	House Elections, etc
SCR17	Support	Guthrie	Create task force to study managing water supply on a watershed basis.	To Governor
SCR92	Support	Kerr, et al	Create a task force to study the Lexington/Big Sandy Rail Trail	Posted House Tourism, etc
SB13	Support	Jackson	Pilot project with State Parks to buy KY-grown & labeled ag products. 5% preference by state agencies to vendors of KY grown ag products	To Governor
SB21	Oppose	Adams	10-year tax credit on 10% of capital costs for new companies that mine or process coal	Senate Ag. and Nat Resources
SB34	Monitor	Harris	Anti-litter education program & tax check off to fund it	Recommended Sen Apro & R
SB61	Support	Sanders	Expands energy efficiency requirements to leased buildings. Creates revolving loan fund to pay for efficiency improvements. Allows state to enter into guaranteed energy saving contracts (see HB214)	Signed by Governor
SB72	Strong Support	Westwood	Tax credits for certain rehabilitation/restoration projects	Recommended Senate A&R
SB102	Strong Oppose	Seum	Requires meeting ozone standards without vehicle emissions tests.	Posted House Local Gov.
SB144		Sanders	State Budget (see HB507)	
SB158	Support	Jones, et al	Establish Pine Mountain Trail State Park (see HB556)	Senate Approp & Revenue
SB169	Monitor	Roeding, etc	Gov. registered vehicles to be VET tested biennially rather than yearly.	House posted for passage 3/18
SB193	Strong Oppose	Sanders	Raids the Petroleum Storage Tank Environmental Assessment fund & study cleanup standards.	House Approp & Revenue
SB237	Support	Leeper	Include strategic planning and the ranking of capital projects for public transit and create a new Public Transit Advisory Commission;	Senate Approp & Revenue
<b>SB257</b>	<b>Support</b>	<b>Harris</b>	<b>Establish board to regulate the siting of merchant power plants, require plant to pay for upgrading trans. lines. ( Improves HB540)</b>	<b>House Local Government</b>
SB284	Strong Support	Blevins	Voluntary public funding for General Assembly candidates See HB355	Senate State & Local Gov.
SB287	Oppose	Mongiardo	Exclude waste-to-energy facility from permit required for tire or solid waste burning.	Senate Ag & Natural Res.

*The Earth Needs a Friend in Frankfort*

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**Ways I will help KCC:**

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**Internet Access of the Alert**

Sierra Club graciously posts the Alert on their web site, go to <http://kentucky.sierraclub.org/alert/billsummary.htm>

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