

KCC Alert



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

502-875-0909

Fletcher Proposes Increase in Environmental Funds

Governor Ernie Fletcher's proposed budget (HB 395) would increase overall spending on Natural Resources and Environmental Protection, much of the increase going to the Kentucky Pride Program.

The Department for Environmental Protection would see a boost from \$77 million this year to \$87.3 million next year, and \$90 million the following year. Those figures includes spending on the Kentucky Pride Program, which would balloon from \$12 million this year to \$25 million next year and to \$30 million the year after. Spending on other Federally funded programs would decrease from \$19.7 million this year to \$16 million next year and \$15.6 million the following year.

Following a decrease in funding this year, the Department for Natural Resources would see a funding increase from \$30.7 million this year to \$38.3 million next year and dipping back to \$37.7 million the following year.

The Environmental Education Council funds would stay flat at \$150,000. Surface Mine Reclamation and Enforcement funding would stay flat as would Abandoned Mine Reclamation.

The Environmental Quality Commission returns to the budget as a separate line item. Last year Governor Patton ordered the Cabinet to fund it out of its budget. Fletcher proposes to reduce it, however, from \$254,000 in 2002 to \$150,000. That is enough for only one staff person and an aid.

Reauthorization of the hazardous waste fees is also contained in Fletcher's budget proposal. These fees paid by hazardous waste producers help pay for cleanup of state superfund sites.

KCC To Do List:

- ❑ Ask Reps. Meeks, Marzian, L. Clark, Graham, Horlander, Jenkins, Miller, and Riner to withdraw HB349 (see A Real Sinker, below)
- ❑ Ask Rep. Moberly (Appropriation & Revenue Chair) to restore full funding for Environmental Quality Commission (see ...Funds, left)
- ❑ Call Bruce or Kristen and arrange to spend a day as a citizen lobbyist. It's fun and easy.

HB 349: A Real Sinker

HB 349 (Meeks, et al) should have a lead sinker tied to it and be thrown overboard. Poorly conceived and poorly written, this bill threatens human health while unconstitutionally removing an injured party's right of redress in the courts.

The bill seeks to create two categories of properties: "lead safe" and "lead free". Certifying a property as "lead safe" or "lead free" would immunize the owner from liability. HB 349 does not clearly set out, however, what these terms mean and by what mechanism they are to be "certified". The danger to human health is that these labels could mislead the public into believing that a property was safe or free of lead when, in fact, it is neither.

The labels would be misleading because the bill assumes the only threat from lead is paint on the surfaces of a dwelling. There is no consideration for lead in the soil around dwellings or dust arising from the soil that can contaminate the interior of a dwelling.

A property (notice it doesn't say "dwelling") is certified as lead free if it was built after 1978, but this does not ensure that no lead-free paint was used. It is also certified as lead free if the interior surfaces are tested for lead and all exterior chipping and peeling paint is covered over with non-lead paint. Not only is it not "lead free" (the lead paint has not been removed), there is no assurance that chipping and peeling will not continue unabated.

HB 439 does not define who will do the inspection, what qualification the inspectors must have, and what the inspectors are looking for. The language is vague enough that it could be interpreted as self-certification.

A property is certified as "lead safe" if action is taken to reduce the exposure to lead based paint. Again, it does not deal sources of lead other than paint. There is no exposure level at which lead is known to be safe. It causes neurological damage at very low levels. The only way to make it safe is to eliminate exposure.

Certification as "lead free" or "lead safe" can make unsafe property appear safe while it immunizes the owner from liability for lead exposure if the property has been certified "lead free" or "lead safe".

To make the bill even more troubling, if the injured party is made a "qualified offer," the owner is immunized from lawsuit. It doesn't matter if it is a reasonable offer or whether the injured party accepts the offer.

Thanks to KRC's Tom FitzGerald for help in the technical analysis.

Billboards Trump Nature?

The billboard industry is at it again. For the umpteenth time, they are trying to obtain the right to chop down trees and shrubs, within 500 ft of the sign, in the public right of way that block the view of their signs. Sen. Ernie Harris is sponsoring SB 114 on the industry's behalf.

On The Move

Our last Alert highlighted HB 179 exempting local governments from permits to reconstruct stream crossings. The sponsor is no longer expected to push this bill. It appears his concerns about expediting flood damage repairs will be handled administratively, rather than statutorily.

HCR 8, ordering a study of how to complete the Big Sandy Trail looks like it will soon pass in the House. The Big Sandy Trail is a proposed recreational trail from Lexington to Ashland using an abandoned railroad.

HB 281, which recreates the Interagency Farmland Committee, has passed the House. The Committee would report to the Governor all state agency projects converting more than 50 acres of farmland for non-farm use. It requires the committee develop an agricultural impact statement and consider alternatives. Ironically, Governor Patton dismantled the previous Committee in 2002 and the General Assembly repealed the law creating it in 2003. The controversy over the committee started when opponents of The Tri-modal Transpark, an industrial park near Bowling Green, asked the Governor to have the Committee review this project.

Car Wreck

In the 2003 session, the General Assembly approved legislation ordering the dismantling of Jefferson County's vehicle emission testing program. Kentucky Resources Council, representing Sarah Lynn Cunningham, challenged this law in U.S. District Court.

On January 29 2004, the Judge ruled that the General Assembly overstepped its power and that it was a violation of the Clean Air Act to end the program.

Meanwhile, SJR 3 recently gained Senate approval. SJR 3 declares the Northern Kentucky vehicle emission-testing program unconstitutional, illegal and unenforceable. Stay tuned.

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. 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 Schedule

March 1: Last Day for New House Bills
 March 3: Last Day for New Senate Bills
 March 26, 29: Concurrence with other chamber's bills
 March 30 - April 9: Governor's veto days, no meetings
 March 12-13: Veto override & final business

Key Committee Assignments

Senate Ag. and Nat. Resources Ernie Harris (R), **Chair** Vernie McGaha (R), **Vice Chair** Daniel Kelly (R) Robert Leeper (R) Virgil Moore (R) Damon Thayer (R) Elizabeth Tori (R) David Boswell (D) Paul Herron Jr (D) Joey Pendleton (D) Tim Shaughnessy (D)
Senate Econ. Dev., Tourism & Labor Katie Stine (R), **Chair** Alice Kerr (R), **Vice Chair** Julie Denton (R) Brett Guthrie (R) Vernie McGaha (R) Richard Roeding (R) Damon Thayer (R) David Boswell (D) Daniel Mongiardo (D) Joey Pendleton (D) Jerry Rhoads (D)
Senate State and Local Gov. Albert Robinson (R), **Chair** Alice Kerr (R), **Vice Chair** Charlie Borders (R) Tom Buford (R) Julie Denton (R) Ernie Harris (R) Elizabeth Tori (R) Walter Blevins (D) David K. Karem (D) Johnny Ray Turner (D) Ed Worley (D)
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House Economic Dev., Nat Res. & Tourism Bob Damron (D), **Chair** Harry Moberly (D), **Ex-Officio** Ruth Ann Palumbo (D), **Non-voting Ex-Officio** Buddy Buckingham (D), **Liaison Member** Charlie Hoffman (D), **Liaison Member** Tommy Thompson (D), **Liaison Member** Jim Callahan (D) Larry Clark (D) Lonnie Napier (R) John Vincent (R)
House Natural Resources and Environment James Gooch (D), **Chair** Howard Cornett (R), **Vice Chair** Keith Hall (D), **Vice Chair** Scott Brinkman (R) Hubert Collins (D) Tim Couch (R) Don Pasley (D) Marie Rader (R) Rick Rand (D) Brandon Smith (R) Jim Stewart (R) Robin L. Webb (D) Brent Yonts (D)
House Tourism Dev. and Energy Eddie Ballard (D), **Chair** Jodie Haydon (D), **Vice Chair** Thomas McKee (D), **Vice Chair** Brandon Smith (R), **Vice Chair** Royce Adams (D) Carolyn Belcher (D) Howard Cornett (R) Keith Hall (D) Mike Harmon (R) Mary Harper (R) Thomas Kerr (R) Brad Montell (R) Tanya Pullin (D) Ancel Smith (D) Charles Walton (R) Robin L. Webb (D)

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: 1-866-301-9004
 Committee Calendar Line: 1-800-633-9650
 Governor's Office: 502-564-2611
 Secretary LaJuana Wilcher: 502-564-3350
 Legislator Fax line: 502-564-6543

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

Bill Summaries and KCC Position

Bill No	Position	Sponsor	Summary	Status
SJR 3	Strong Oppose	Roeding	Declare the N. KY Emission testing program unconstitutional, illegal and unenforceable.	H. Nat Resources & Env.
SB 3	Support	Tapp, Herron, Pendleton	Provide nonrefundable tax credits of \$1/gal for biodiesel producers, two cents per gallon for blenders, and one cent per gallon for retailers.	Sen. Approp. & Rev.
SB 10	Oppose	Seum, Roeding	Prohibit local anti-smoking ordinances for private property not leased or occupied by government. Retroactive.	Sen. State & Local Gov.
SB 22	Strong Support	Scoresone, Neal	Provide a tax credits for qualified rehabilitation expenses paid to rehabilitate a certified historic structure. (Smart Growth)	Sen. Econ Devel, Tourism & Labor
SB 33	Monitor	Karem	Allow state and local agencies involved in land use disputes to utilize alternative dispute resolution proceedings. (see HB133)	Sen. Judiciary
SB 50	Strong Oppose	Roeding Thayer	Restrict the use of emergency regulations.	Sen. State & Local Gov.
SB 58	Monitor	Denton	Establish a process to review all state government agency functions to determine which can be privatized.	Sen. State & Local Gov.
SB 68	Oppose	Harris	Deny tobacco settlement money to counties where a Gov. unit has regulated tobacco use.	Sen. Ag & Natural Resources
SB 69	Support	Harris	Expand the definition of nuisance wrt/contained landfills including odor, require the cabinet to establish permit conditions to stop such	Sen. Ag. & Natural Resources
SB 76	Monitor	Denton	Transfer all hearing officers employed in the state to a Div of Administrative Hearings within the Justice Cabinet	Sen. Judiciary
SB 89	Strong Oppose	Roeding	Establish guidelines for governmental taking or regulation of use of private property.	Sen. Judiciary
SB 114	Strong Oppose	Harris	Establish a process for owners of billboards to trim or prune vegetation obscuring them.	Sen. Transportation
SB130	Oppose	Seum	Prohibit local governments from adopting smoking policies in private buildings.	Sen. Uncommitted
HCR 8	Support	Vincent	Create task force to suggest a strategy to complete the Lexington/Big Sandy Rail Trail	H. Posted for passage in regular orders of the day
HJR 12	Strong Oppose	Marcotte	Direct Health & Natural Resources Cabinet to shutter N. KY Vet prog.	H. Local Government
HJR 98		Gooch, Gray, Nesler	Declare emergency regs for noncoal mines deficient; require new emergency regs same as previous noncoal mining regs.	H. Natural Resources & Env.
HB 41	Support	Yonts	Require anhydrous ammonia storage areas owned by any wholesaler, retailer, or dealer be enclosed by a wire fence	H. Ag & Small Business
HB 53	Monitor	Marcotte, Walton	Exempt cars and trucks four model years and newer from mandatory vehicle emission testing	H. Local Government
HB 66	Monitor	Gray	Preempt local laws, relating to the use or consumption of tobacco	H. Local Government
HB 127	Strong Support	Belcher	Establish the Pest Plant Board to identify and coordinate a statewide response to noxious weeds and invasive plant species	Posted H. Ag & Small Business
HB 132	Support	Webb	Require education about prevention, detection, and remediation of toxic mold or other indoor environmental toxins, for any person seeking licensure HVAC contractor	H. Labor & Industry
HB 133	Monitor	Brinkman	Allow state and local agencies involved in land use disputes to utilize alternative dispute resolution proceedings (see SB33)	H. Judiciary
HB 145	Support	Hoffman	Require radon mitigation in new residential dwellings, daycare, and public/priv. elementary schools located in zones w/high radon levels.	H. Health & Welfare
HB 155	Support	Marzian, Buckingham	Require all-terrain vehicle drivers be 16 or over & wear protective headgear.	H. Transportation
HB 179	Oppose	Coleman	Exempt local governments from obtaining a stream construction permit when reconstructing, improving, or replacing an existing structure.	Posted H. Natural Resources & Env.
HB 197	Support	Hoffman	Add radon to seller's disclosure of conditions prior to sale of residential property.	Posted H. Labor and Industry
HB 202	Monitor	Adams	Require wastewater treatment entities furnishing treatment services to customers of another sewer system to pay just compensation; grant the power of eminent domain over sewage treatment facilities; permit entities to recover costs through surcharge to customers	Sen. Ag. & Natural Resources
HB 281	Support	McKee et al	Require all state-proposed projects acquiring 50+ acres of farmland and converting it to non-farm use be reported to a committee to submit to the Governor with the committee's findings and recommendations.	Sen. uncommitted
HB 301	Monitor	McKee	Require unobligated money in the waste tire trust fund be used for projects to manage and develop markets for waste tires, including projects that use crumb rubber for athletic fields as a first priority.	House Posted for passage in regular orders of the day

HB 349	Strong Oppose	Meeks, et al	Establish a lead free certification program for property. Relieve owner of certified property from liability.	H Health & Welfare
HB 355	Monitor	Nelson	Create designation of "classified forest" Provide tax incentives.	H Natural Resources & Env.
HB 369	Oppose	Collins, Hall	Sets a 15-day limit for health departments to respond to requests for on-site sewage disposal system evaluations and permit approval.	H Natural Resources & Env.
HB 370	Oppose	Collins, Hall	Deletes the exception of surface discharge systems to on-site sewage disposal systems that local health departments approve and permit;	H Natural Resources & Env.
HB 388	Strong Support	Wayne, Riggs	Sets ethics and training requirements for zoning boards	Posted H Local Government
HB 395		Hoover	Executive Branch Budget	H. Approp. & Revenue

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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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