

# KCC Alert



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

502-875-0909

## Bury This One

SB 175 sponsored by Sen Stivers would allow Environment and Public Protection Cabinet (EPPC) to take over permitting from the Corps of Engineers of the filling of streams and wetlands.

According to Tom FitzGerald of Kentucky Resources Council, this would eliminate the requirement for an environmental impact statement or environmental assessment, and would also eliminate the "public interest review" under which the Corps can deny permits if on balance the public interest is not protected.

It would also mean that EPPC would acquire a new regulatory program under its already constrained budget and limited staff.

## Not Appealing

SB 157 sponsored by Sen. Stivers would require anyone challenging a development proposal or land use change decision before the appeals court to post a \$25,000 to \$100,000 appeal bond.

This obviously creates a financial barrier to appellate review regardless of the merit of the appeal. "Existing law already grants appellate courts sufficient authority to 'police' bad-faith appeals," claims environmental attorney Tom Fitzgerald.

FitzGerald also says it is unclear whether existing standards for awarding costs for frivolous or bad-faith litigation would remain, or whether a lower standard would be established so that an appellant would be required to pay costs including "delay costs" merely for an unsuccessful appeal.

Such legislation inherently assumes that appellants seeking review of a trial court decision in rezoning case to be frivolous and that there is a need to constrain the right to seek review for all appellants.

## KCC To Do List:

- ❑ Ask members of the House & Senate Appropriation and Revenue Committee to retain funding for the Kentucky Land Heritage Trust.
- ❑ Call and ask your Senator to Oppose SB 175. See "Bury This One" at left.
- ❑ Call and ask your Senator to Oppose SB 157. See "Not Appealing" below.

## Kentucky's New Energy Strategy Needs Improvement

By Geoff Young

Governor Ernie Fletcher unveiled the long-awaited energy strategy for Kentucky on February 7. Although it contains a few promising provisions, it basically promotes a business-as-usual approach. It fundamentally fails to lay a foundation for an energy sector that is as sustainable, efficient, and environmentally sound as it needs to be if Kentucky is to move forward. The plan disregarded most of the substantive comments that environmentalists had made at three public hearings across Kentucky in December.

The document notes repeatedly that Kentucky's electricity has been very cheap because of plentiful in-state coal. But the most easily-mined, thicker seams are disappearing, and the report does not even attempt to analyze whether the trend to mining thinner seams will drive up the cost, and if so, how soon and by how much.

Several recommendations seem designed to subsidize the coal industry even more than the state does today. For example, Recommendation 19 reads: "The Commonwealth of Kentucky should examine its regulatory policies and traditional economic development incentives to design and implement policies that promote investment in clean coal technology." Recommendation 20 reads: "The Commonwealth of Kentucky should develop policies to provide incentives for the purchase of Kentucky coal at clean-coal facilities." The coal industry and the electric utility industry, however, are both mature industries that are financially capable of funding their own research and capital investments without public assistance (i.e., corporate welfare). The report also ignores the fact that the faster we extract our low-cost fossil fuel resources, the sooner they will be gone.

The largest missed opportunity is that the strategy does nothing to get the electric utility industry to help improve energy efficiency in all sectors of Kentucky's economy. Right now, utility companies oppose efficiency and cogeneration because it reduces the amount of electricity they sell. A few painless regulatory changes by the Public Service Commission (PSC), however, could make our utility companies enthusiastic and effective partners in improving energy efficiency in our homes, buildings and industries. The potential for cost-effective improvement is huge, as are the potential economic savings and environmental benefits.

Suggested Action: Write to Governor Fletcher and ask that he direct the PSC to meet with environmentalists to develop regulatory changes that will improve energy efficiency throughout Kentucky. His address is: Governor's Office, State Capitol, Frankfort, KY 40601

**Key Committee Assignments**

**Senate Ag. and Nat. Resources** Tom Jensen (R), Chair; Vernie McGaha (R); Vice Chair, David Boswell (D); Ernie Harris (R); Dan Kelley (R); Bob Leeper (R); Joey Pendleton (D); Dorsey Ridley (D); Richie Sanders (R); Ernesto Scorsone (D); Damon Thayer (R)

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**Legislative Schedule**

Feb 1: Part 2 Convenes  
 Feb 14: Last Day for New Bills  
 Feb 21: Holiday  
 March 4-7: Concurrence with Changes made by other chamber  
 March 8-18: Governor Veto Days, no meetings  
 March 21 - 22: Veto override & final business

**Contacting 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.

**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  
 For detailed info go to  
<http://www.lrc.state.ky.us/home.htm>

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**Bill Summaries and KCC Position**

Bill No	Position	Sponsor	Summary	Status
SB 31	Support	Tapp	Create nonrefundable tax credits to producers, blenders and retailers of biodiesel fuel; annual limit of \$1,000,000; See HB 57.	Senate Approp. & Revenue
SB 41	Monitor	Kelly	Reorganizes state Agencies to create Environmental and Public Protection Cabinet	House State Government
SB 48	Monitor	Harris	Cities can assume control of sewers in a part of a sanitation district it plans to annex only if approved by sanitation district. See HB 122	Senate Ag & Natural Resources
SB 104	Support	Thayer	Sets up new operating rules for sanitation districts and allows sanitation districts to manage storm water systems. Needs Amending.	Senate Ag & Natural Resources
SB 123	Oppose	Buford	Changes the rules about promulgating administrative regulations	House
SB 133	Support	R Sanders	Include water, sewer, and metering upgrades as items appropriate for guaranteed energy savings performance contracting.	Senate Ag & Natural Resources
SB 157	Strong Oppose	Stivers	Challengers appealing circuit court decisions of zoning issues must post a bond of at least \$25,000.	Senate State & Local Gov.
SB 175	Strong Oppose	Stivers	Allow NREPC to assume authority from Army Corp of Engineers to issue permits to fill streams and wetlands.	Senate Uncommitted

SB 180	Under Review	Stivers	Extend the authority, beyond September 30, 2004, for reming incentives in Kentucky when the federal authority is extended.	Senate uncommitted
HCR 57	Monitor	P Clark	Create Task Force to study the use of eminent domain and assess safeguards to protect private property owners and the environment in eminent domain situations.	Posted House Judiciary
HJR 65	Support	Nelson	Reauthorize the Forest Health Task Force for 2 years; designate the State Entomologist as chair; require state agencies to identify threats to Kentucky forests and ways to address them.	House Natural Resources & Environment
HB 8	Strong Oppose	Cornett	Extend the weight limits on coal trucks to all "natural resource" haulers	House 2 <sup>nd</sup> reading to Rules
HB 56	Support	Burch, et al	Develop a plan to improve the health and well being of all Kentuckians pursuant to the goals identified by Healthy Kentuckians 2010.	Senate
HB 57	Support	Baugh	Create nonrefundable tax credits to producers, blenders and retailers of biodiesel fuel; annual limit of \$1,000,000; See SB 31.	House Approp. & Revenue
HB 59	Oppose	Weaver	Create Open Meetings Law & Open Records Law exceptions for the discussion of certain public utility records.	House Posted for passage in regular orders Feb 10
HB 64	Support	Meeks	Creates financial incentives for counties to share fire, police, emergency services & landfills. Additional money to eliminate illegal dumps for counties sharing landfills.	Posted House Local Gov.
HB 79	Oppose	Baugh	Create temporary master logger designation with authority to supervise logging operations provided the cabinet is notified logging begins.	Posted House Natural Resources & Environment
HB 87	Support	Marzian	Extend statute of limitations to 20 years for workman compensation claims resulting from exposure to vinyl chloride	Withdrawn, See HB 297
HB 122	Monitor	Feeley	Cities can assume control of sewers in a part of a sanitation district it plans to annex only if approved by sanitation district. See SB 48.	House Local Gov.
HB 129	Support	Smith	Reduces weight limits for coal trucks (2-5 axles) by 10,000 pounds.	House Transportation
HB 137	Oppose	Harmon	Limits the Kentucky River Authority's ability to assess water use fees.	House State Gov.
HB 143	Support	Wayne	Stipulates there cannot be more than one planning unit covering the same territory in merged urban/county governments.	House Posted House State Gov.
HB 172	Support	Nelson	Defines designation of "classified forest" for purposes tax assessment to give woodland owners tax relief. Owner must have approve management plan. System run by Division of Forestry.	House Posted House Economic Development
HB 190	Oppose	Collins et al	Health Depts must respond to application for on site sewage treatment systems and plumbing installation within 15 days.	House Posted for passage in Reg. orders Feb 11
HB 225	Oppose	Pullin et al	Create Ky Gas Transmission Authority with ability to issue revenue bonds to assist the construct/maintain intrastate gas transmission lines in under served areas.	2 <sup>nd</sup> Reading, to Rules
HB 232	Support	Wayne, Tiggs	Ethics codes for planning board members.	Posted for passage in regulars orders Feb 10
HB 235	Support	Crimm, et al	Legislature must approve sale of State Park Real Estate.	House 2 <sup>nd</sup> Reading to Rules
HB 267	Monitor	Hoover	The Executive Branch Budget	House Approp & Revenue
HB 272		Hoover	The Governor's Tax package. Support sections 143-158	House Approp & Revenue
HB 283	Support	Vincent	Require junkyard operators to report material quantities and income for taxation purposes	House Natural Resources & Environment
HB 297	Support	Marzian	Extends statute of limitations for claims resulting from exposure to vinyl chloride.	Senate
HB 302	Support	Hall, et al	Create the Kentucky Mutiple-use Recreational Trail Commission to develop and implement a multi-county demonstration trail system project funded by interested counties and to recommend a transition plan for a permanent state entity to plan, promote, fund, and manage multi-county recreational trails on privately owned land.	Posted House Tourism Development & Energy
HB 319	Oppose	Fischer, Keene	Allow independent planning units created prior to 1966 to continue to operate and not be required to conduct or respond to interrogations for joint planning units or to dissolve.	Posted House Local Government
HB 323	Under Review	Rand	Establish an Off-road Motorcycle and ATV Commission to evaluate related state laws and regulations.	House Transportation
HB 331	Support	Meeks	Archeological protections.	House Licensing & Occup.
HB 337	Under Study	Palumbo	Distressed areas can be identified as redevelopment areas, and utilize tax increment financing and other redevelopment assistance tools.	Posted House Economic Development
HB 345	Support	Denham	Include junked, and wrecked automobiles, vehicles, machines, and mobile or manufactured homes that are junked, wrecked, or nonoperative and uninhabited, in the definition of prohibited items to be on property, and exclude licensed automotive recycling dealers	Posted House Local Government

HB 372	Oppose	Ballard	Create a program and standards for certification & accreditation of environmental testing laboratories and technicians.	House Natural Resources & Environment
HB 406	Monitor	Cherry	Authorize creation of a joint municipal power authority by two or more municipalities.	House Tourism Development & Energy
HB 416	Support	Webb, Moberly	Create statewide health information system to better understand health threats.	House Uncommitted
HB 423	Support	Wayne	Allow local governments to assess and collect impact development fees, and provide for the administration of the process.	House Uncommitted
HB 428	Support	Denham	Provide a tax credit for tobacco warehouse remediation costs; and provide real estate tax breaks for tobacco warehouses.	House Uncommitted
HB 436	Support	Denham	Includes Public Service commission in Executive Branch Ethics law.	House Uncommitted

*The Earth Needs a Friend in Frankfort*

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

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

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