

# KCC Alert



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

## 7 Days Remaining

With seven days left in the 30 day session, any bill not passed by one chamber is most likely dead. If a bill has not already been heard in the second chamber's committee, it has a large uphill battle. Bills recommitted to the Appropriations and Revenue Committee are usually sent there to die.

## Ditch SB 175

SB 175 sponsored by Sen Stivers has passed the Senate and moved to the House Natural Resources and Environment Committee. It would allow Environment and Public Protection Cabinet (EPPC) to take over permitting of the filling of streams and wetlands from the Corps of Engineers.

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.

The suspected intent is to ease the permitting on mountain top removal mining.

## KCC To Do List: **ACT NOW!**

- ❑ Ask you Senator to Oppose HB 8. See "HB 8 Would..." below.
- ❑ Ask your Representative to Oppose SB 175. See "Ditch 175" below.
- ❑ Ask your Representative to Oppose SB 157. See "...Developers Advantage..." below.
- ❑ Ask Sen. Damon Thayer to call HB 232 and HB 436 for hearing in committee. See "Two Ethics Bills on pg 2."

## HB 8 Would Increase Road Carnage

A bill to expand the Extended Weight Coal Haul Road System to include sand, gravel, and other "natural resources" was approved by the House and has moved to the Senate Transportation Committee. There is just enough time for HB 8 to squeak out of committee and gain approval by the Senate.

The current limit of 80,000 pounds for no-coal trucks would be increased to 126,000 pounds, in exchange for a fee. Overweight coal trucks are already responsible for numerous deaths and injuries every year because they simply cannot stop or avoid road hazards.

Residents and drivers near sand, gravel and limestone mines will incur the same dangers and quality of life reduction as those near coal mine now do including more deaths and injuries from car-truck collisions.

The Legislature Resource Commission estimates HB 8 would cost \$25 million dollars a year to repair roads and bridges and require \$360 million in bridge replacement projects to upgrade bridges incapable of handling the loads. This would be on top of the costs already incurred by the extended weight coal haul system. The fees would not cover the additional costs.

Advocates have presented this as a fairness issue. In other words, why should coal have a unique advantage? Following this logic, it would be like allowing your kids to drink illegally because your neighbors kids are allowed to drink illegally. KCC believes it was wrong to give coal trucks an exception to the weight limits in the first place.

The 126,000 pound weight limit on coal trucks has been widely ignored with most trucks, by the driver's own admission, running well over the limits. Recent enforcement actions have resulted in agreements by coal companies to come in compliance with the law. It is not unreasonable to expect, however, that other industries would be driven by the same influences to haul over the 126,000 pound limit, too.

## Bill Giving Developers Advantage Over Challengers Advances

The Senate has approved SB 157 sponsored by Sen. Stivers, which 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. The bill is now in the House Judiciary Committee

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.

## Two Ethics Bills Advance

HB 232 introduced by Jim Wayne and Steve Riggs would make planning commissions subject to ethics codes, extend comprehensive plans to project 20 years, requires consultation with specific stake-holder entities for plan adoption. It has advanced to the Senate State and Local Government Committee. The same bill died in this committee last year.

HB 436 sponsored by Rep. Cherry amends Executive Branch Ethics law to include Public Service Commission (PSC) as an "executive agency" and include commission orders as "executive agency decisions." It has also advanced to the Senate State and Local Government Committee. There are currently no ethics laws regarding the PSC.

## Privately Public and Secretly Open

The House has passed HB 59 sponsored by Rep Weaver, which would create exemptions to open meeting and open records laws for public utilities such as water, wastewater, sewage and gas. The purported reason is to allow for the protection of vital and potentially hazardous infrastructure against terrorist attack. Fearing it is likely to do more damage to the public's right to know about the presence and handling of and potential exposure to hazardous substances than it is to thwart a terrorist. KCC worked with Jim Wayne to amend the bill to notify the Attorney General and clarify that water quality reports are not included.

## 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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### 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

## 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	Posted for passage in regular orders Feb 28
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.	Withdrawn
SB 123	Oppose	Buford	Changes the rules about promulgating administrative regulations	House 2 <sup>nd</sup> Reading, to Rules
SB 133	Support	R Sanders	Include water, sewer, and metering upgrades as items appropriate for guaranteed energy savings performance contracting.	House Posted State Gov.
SB 157	Strong Oppose	Stivers	Challengers appealing circuit court decisions of zoning issues must post a bond of at least \$25,000.	House Judiciary
SB 175	Strong Oppose	Stivers	Allow NREPC to assume authority from Army Corp of Engineers to issue permits to fill streams and wetlands.	House Natural Resources & Environment
SB 180	Under Review	Stivers	Extend the authority, beyond September 30, 2004, for reminding incentives in Kentucky when the federal authority is extended.	House Natural Resource & Environment
SB 213	Strong Oppose	Seum	Abolish Louisville Metro Air Pollution Control Board. Rules and prohibit regulations more stringent than federal rules.	Senate Ag & Natural Resources
SB 214	Support	Seum	Green spaces, parks, & golf courses, etc must remain after the developer sells all the residential lots in a new subdivision.	Senate State & Local Gov.
SB 216	Support	Rhoads, et al	Require student to present proof of blood lead testing prior to enrollment in any public or private elementary or secondary school.	Senate Education
SB 222	Support	Blevins, Worley	Creates Commission for a Healthy Kentucky to implement recommendations from the report "Healthy Kentuckians 2010"	Senate Education
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 for Passage in Regular Orders for Feb 23.
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.	Senate Uncommitted
HB 8	Strong Oppose	Cornett	Extend the weight limits on coal trucks to all "natural resource" haulers	Senate Transportation
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 Education
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	Support	Weaver	Create Open Meetings Law & Open Records Law exceptions for the discussion of certain public utility records.	Senate Veterans Military Affairs & Public Protection
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.	Senate Uncommitted
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.	Withdrawn
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.	Recommitted House Approp. & Revenue
HB 190	Oppose	Collins et al	Health Depts must respond to application for on site sewage treatment systems and plumbing installation within 15 days.	Senate Ag & Natural Resources.
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.	Senate Posted for Passage in Regular Orders for Feb 28

HB 232	Strong Support	Wayne, Riggs	Ethics codes for planning board members.	Senate State & Local Gov.
HB 235	Support	Crimm, et al	Legislature must approve sale of State Park Real Estate.	Senate State & Local Gov.
HB 267	Monitor	Hoover	The Executive Branch Budget	Senate Approp & Revenue
HB 272		Hoover	The Governor's Tax package. Support sections 143-158	Senate 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 Judiciary
HB 302	Support	Hall, et al	Create the Kentucky Mutiple-use Recreational Trail Commission to develop and implement a multi-county demonstration trail 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.	House Posted for Passage Feb 23
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.	Senate Transportation
HB 331	Support	Meeks	Archeological protections.	House Posted in Reg. Orders
HB 337	Under Study	Palumbo	Distressed areas can be identified as redevelopment areas, and utilize tax increment financing and other redevelopment assistance tools.	Senate Uncommitted
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	Senate Uncommitted
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.	Posted House Tourism Development & Energy
HB 416	Support	Webb, Moberly	Create statewide health information system to better understand health threats.	Posted House Health & Welfare
HB 423	Support	Wayne	Allow local governments to assess and collect impact development fees, and provide for the administration of the process.	Posted House Local Gov.
HB 428	Support	Denham	Provide a tax credit for tobacco warehouse remediation costs; and provide real estate tax breaks for tobacco warehouses.	House Approp & Revenue
HB 436	Strong Support	Denham	Includes Public Service commission in Executive Branch Ethics law.	Senate State & Local Gov.
HB 450	Oppose	Gray	Raises speed limits to 75 mph on interstates, 65 on state highways w/over 4 lanes, 55 on state hwy four lanes or less.	House Transportation
HB 456	Monitor	Rand, Vincent	Amends existing state law concerning recycling tax credits for investments in recycling or composting equipment.	House Approp & Revenue
HB 471	Oppose	Denham	Authorize local governments with sufficient staff expertise to issue building permits in a floodplain.	House Recommended to Appropriation & Revenue
HB 472	Support	Lindsay	Adopt Uniform Environmental Covenant Act providing for uniform environmental covenants for restriction of land uses for brown fields.	Senate Uncommitted
HB 479	Support	Meeks et al	Establish program to screen children for lead poisoning. Mandate remediation of lead paint and soil hazards by owner where occupant shows high blood lead levels, provide fines.	Posted House Health & Welfare
HB 483	Support	Simpson	Specify labeling for mixed material plastic containers	House Natural Res. & Env.
HB 509	Strong Support	Palsey, Moberly,Stein, Wayne	Mountaintop removal mining overburden must be returned to mine area to the maximum extent possible. Other overburden to be disposed of in permitted areas or previously mined areas. No overburden is to be disposed of in the waters of the Commonwealth.	House Natural Resource & Env.
HB 515	Monitor	Wuchner, et al	Attorney General to develop guidelines to help state and local govmnts evaluate if proposed actions would devalue private property.	House Judiciary

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

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