

# KCC Alert



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

## Dirty Air Bill Rides Roller Coaster

Senate Bill 39, Sen. Dan Seum's Dirty Air Bill took a tortuous path of ups and downs as it wound its way through the legislative process. Currently it is back in the House after improvements made in the House were rejected by the Senate. If the House does not "recede", or accept the Senate version, it will go to conference committee, where anything can happen.

This bill is intended to put a halt to Louisville's novel program to reduce toxic air emissions known as the Star Program (Strategic Toxic Air Reduction).

The Senate approved version would kill the program and require a 3/5 majority of the Louisville-Metro council to reinstate it. Additionally, any limits under the program more stringent than Federal or State regulations would require Council approval.

The House Local Government Committee adopted a Committee Substitute keeping the STAR program and mandating the Air Pollution Control District produce a cost-benefit assessment by November 30. It provides for the Metro Council to recommend revisions to the program by December 31, 2006.

The bill with committee substitute was approved by the House and returned to the Senate for concurrence. The Senate refused to concur and returned the bill to the House with a request to recede. The bill is now on the legislative Calendar in the House for a vote to recede on Monday, March 20.

### Background

Local air pollution control districts (APCDs) are given the authority by federal law (and, in Kentucky, state law) to adopt regulations more stringent than the U.S. EPA's when supported by evidence of local problems.

The EPA has ranked Jefferson County worst in the Southeast for health risks from air pollution. In response to the high level of toxic emissions in Louisville, the Louisville-Metro APCD board has worked with stakeholders over the last couple of years to develop a plan and set of standards to improve the regional air quality.

Proponents of SB 39 think that efforts to clean up Louisville's toxic air emissions will drive away industry. Ford Motor Company, which has an assembly plant in Louisville, has been one of the bill's major supporters.

### KCC To-Do List:

- Leave a message for all Representatives not to back off from their amendment to SB 39 (See Dirty Air., Left).
- Thank your Senator and Representative for approving HCR 120 (see Below).

## KCC's Land Stewardship and Conservation Program Awaits Governor's Signature

KCC's Land Stewardship and Conservation Program, HCR 120, cleared the Senate 37-0 after passing in the House by a 96-3 margin, and now awaits the Governor's signature.

As last reported here it was in serious danger because it was sent by Senate leadership to the Appropriations and Revenue Committee rather than the Natural Resources committee, where it would normally go. Facing a bias of Senate Leadership against task forces and a committee distracted by budget responsibilities, the resolution was broken free and easily won approval.

HCR 120 creates a Task Force charged with studying the State's strategy for the protection of natural resources, farmlands, habitats and forests. It will review ways to provide long term funding for existing programs: Land Heritage Conservation Fund, Forest Stewardship Fund, PACE and Fish and Wildlife Land.

The Task Force will include representatives from the various stakeholders.

The Task Force will include representatives from the General Assembly, League of Kentucky Sportsman, Kentucky Resource Council, Kentuckians for the Commonwealth, Kentucky League of Cities, Kentucky Woodland Owners, Kentucky Farm Bureau, Kentucky Homebuilders Association, Kentucky Association of Counties, KY Nature Preserves Commission, and the Dept of Fish and Wildlife. The Task Force will report by June 30, 2007.

The Stewardship Program was proposed by the Kentucky Conservation Committee. Kentucky is losing 130 acres a day to urban use. Kentucky is ranked 47<sup>th</sup> in the nation of state ownership and protection of natural areas. Please thank the following people instrumental in passing the resolution: Rep. Webb, Sens. Kelly and Borders, EPPC Secretary Luana Wilcher, and Fish and Wildlife Commissioner John Gasset and Susan Bush.

**Key Committee Assignments**

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**Legislative Schedule**

Feb 20: Holiday (Presidents Day)  
 Feb 27: Last Day for New House Bills  
 March 1: Last Day for New Senate Bills  
 March 24-27: Concurrence with Changes made by other chamber  
 March 28- April 7: Governor Veto Days, no meetings  
 April 10 - 11: 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. 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 oppose bill xyz." You don't have to be an expert. Your relevant personal experiences 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

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**Bruce Williams**, 502-863-5938  
**Kristen Dunaway** 502-777-5429

**Bill Summaries and KCC Position**

| Bill No | Position       | Sponsor        | Summary  | Status                                      |
|---------|----------------|----------------|--|---|
| SB 29   | Monitor        | J. Carroll     | Restrict the use of eminent domain by public entities to only "qualified public uses" involving public ownership and control.              | Senate Judiciary                            |
| SB 39   | Strong Oppose  | Seum           | Any local toxic air rules more stringent than state or federal must be approved by a 3/5 vote of the local legislative body.               | House Posted for Passage to recede March 20 |
| SB 50   | Strong Support | Kelly          | Stipulate uses of Kentucky Pride Funds for purposes such as hazardous waste cleanups, landfill protection, litter control, recycling, etc. | Signed by the Governor                      |
| SB 75   | Support        | Harris         | Extend the hazardous waste assessment fee from June 30, 2006 to June 30, 2008; waive it if under \$50/year.                                | To Governor                                 |
| SB 76   | Monitor        | Harris         | Allow EPPC to terminate post-closure monitoring of hazardous waste disposal sites before the end of the 30-year responsibility.            | Signed by the Governor                      |
| SB 82   | Oppose         | Tapp           | Restricts sale of winery sales directly to customers, or package alcohol distributors. This is anti small-farm/winery.                     | Recommitted to Approp. & Revenue            |
| SB 96   | Oppose         | Roeding et al. | Would require a cost-benefit analysis when a state agency proposes administrative regulations.   | Posted House State Government               |

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|---------|------------------|------------------------|--|--|
| SB 103  | Oppose           | Guthrie                | Allow speed limits on interstates and parkways to be raised to 70 mph, and 65 mph on all other four-lane state highways. KCC feels higher speeds will increase traffic deaths and waste gas.   | House Transportation                               |
| SB120   | Support          | Stivers                | Prohibits transfer of Game and Fish Funds to general fund  | House Approp & Revenue                             |
| SB 129  | Monitor          | McGaha, Pendleton      | Legislation to enable deer farming.  | Withdrawn. See SB 230                              |
| SB 136  | Support          | Jensen                 | Brings mining laws into alignment with the federal Office of Surface Mining.   | To Governor  |
| SB 147  | Support          | Jensen                 | Updates Forestry Best Management Practices Board statute to clarify funding and timing of report presentations.  | Passed by both Chambers                            |
| SB 203  | Strongly Support | Jones, Worley          | Income tax credits for properties with solar, wind and geothermal energy systems. Broadens net metering to include hydro, wind, landfill gas, biogas, fuel cell, and combined heating and power systems.   | Senate Appropriations & Revenue                    |
| SB 219  | Monitor          | Jensen, McGaha         | Create statutory easement of necessity to conduct reclamation operations; specify conditions to be met before easement is created.   | Passed both Chambers                               |
| SB 223  | Oppose           | Denton                 | Creates barriers to litigation for exposure to silica dust.  | Senate Health & Welfare                            |
| SB 230  | Monitor          | McGaha                 | Legislation to enable deer farming.  | House Posted for Passage                           |
| SB 237  | Support          | Jensen                 | Allows for blanket bonds for oil and gas wells as opposed to individual well bonding.  | House  |
| SB 241  | Monitor          | Mongiardo, Stivers     | Authorize gov. entities to enter agreements with private individuals and corporations for public recreational use of private lands.  | Senate Ag & Natural Resources                      |
| SJR 230 | Support          | Jones                  | Direct the EPPC to promulgate administrative regulations for emergency action plans for high or significant hazard impoundment dams.   | Senate Ag. & Nat. Resources                        |
| HB 53   | Support          | Vincent, Meeks         | Allow the Kentucky Bicycle and Bikeways Commission to file amicus briefs in cases involving the rights of bicyclists.  | Senate Judiciary                                   |
| HB 55   | Support          | Nunn et al.            | Require a state government smoking policy; permit smoking policies in local government office buildings including restricting indoor smoking.  | In House for concurrence with Senate Changes       |
| HB 69   | Support          | Yonts                  | Updates nuisance laws to include other forms of local govts and imposes liability on landowners for fines and court costs.   | Senate State & Local Government                    |
| HB 83   | Strong Support   | Pasley et al.          | "Stream-Saver Bill." Surface mine overburden must be returned to mine area to the maximum extent possible; other overburden is to be disposed of in permitted or previously mined areas. No overburden or spoil is to be disposed of in the waters of the Commonwealth. Spoil not returned to mine area must be disposed of only in previously-disturbed areas eligible for reclamation under the abandoned mine land program. | House Nat. Resources & Environment                 |
| HB 85   | Support          | Vincent                | Record-keeping requirements for automobile junkyards.  | Posted House Transportation                        |
| HB 114  | Monitor          | Wilkey                 | Delineate allowable and prohibited public uses of property subject to eminent domain.  | House Judiciary                                    |
| HB 117  | Strong Support   | Meeks, Brinkman        | Require testing for an elevated blood lead level of at-risk persons and other target populations of children under age six and pregnant women. Requirements for remediation of lead hazards removed in committee.  | Senate Health & Welfare                            |
| HB 120  | Support          | Crimm                  | Require bottled water distributed in the Commonwealth to identify the source of the water on a label affixed to the bottle.  | Posted House Seniors, Mil. Affairs & Public Safety |
| HB 122  | Monitor          | Nelson et al.          | Define permitted & prohibited practices in the use of eminent domain.  | House Judiciary                                    |
| HB 145  | Strong Support   | Pasley et al.          | Extend the waste tire fee until July 31, 2010; EPPC to report program effectiveness to General Assembly.   | Senate 1 <sup>st</sup> Reading                     |
| HB 165  | Monitor          | Floyd                  | Define permitted & prohibited practices in the use of eminent domain.  | House Judiciary                                    |
| HB 183  | Monitor          | Wilkey et al.          | Define permitted & prohibited practices in the use of eminent domain.  | Posted House Judiciary                             |
| HB 229  | Monitor          | Jenkins, Wayne, Clark  | Establishes a permitting program for development within noise - sensitive areas around airports.   | Posted House Local Gov.                            |
| HB 233  | Monitor          | W. Hall                | Create the KY Hatfield-McCoy ATV trail system in eastern KY and a commission to develop and demonstrate the trail as a pilot project.  | Senate Approp. & Revenue                           |
| HB 239  | Strong Oppose    | Gray, Rudy             | Exclude sand or gravel from the definition of "strip mining."  | Posted House Nat. Resources & Environment          |
| HB 248  | Monitor          | McKee                  | Modification of ginseng harvesting rules and agreements  | Posted House Ag and Small Business                 |
| HB 262  | Oppose           | Denham                 | Authorize local governments with sufficient expertise to issue building permits for land in a flood hazard area.   | House Local Gov.                                   |
| HB 271  | Support          | McKee, Arnold, Osborne | Allow land of at least five contiguous acres that is used for agriculture to be included in an agricultural district.  | Senate Ag. & Natural Resources                     |
| HB 283  | Support          | Owens et al.           | Appropriate \$10 million from the budget reserve trust fund in fiscal  | To Governor  |

|        |                 |                      |   |  |
|--------|-----------------|----------------------|---|--|
|        |                 |                      | year 2005-2006 to support the crisis component of the Low Income Home Energy Assistance Program.  |  |
| HB 299 | Monitor         | Adkins et al.        | "Kentucky Energy Security National Leadership Act" Direct the Office of Energy Policy to develop a strategy for production of liquid fuels from coal and biomass, and for energy conservation.  | Senate Posted for Passage March 22                           |
| HB 311 | Oppose          | Weaver               | Increase speed limit from 65 mph to 70 mph  | Posted House Transportation                                  |
| HB 374 | Monitor         | Palumbo et al.       | Would require a cost-benefit assessment when a state agency proposes administrative regulations.  | Senate 2 <sup>nd</sup> Reading, to Rules                     |
| HB 380 | Needs amendment | Moberly, Hoover      | Executive Budget proposal. Would remove money from Kentucky Pride Fund (\$18 mill) and Petroleum Storage Tank Assurance Fund (\$41 mill) and transfer \$550,100 from Air Quality to Water for 404 primacy.  | Senate Appropriations & Revenue                              |
| HB 383 | Support         | Gooch                | Would increase penalties for persons failing to comply with water well drilling certification provisions.   | Signed by the Governor                                       |
| HB 450 | Support         | Comer, Hall, Rudy    | Require Cabinet to issue immediate cease order to a logger with two bad actor designations who is violating best management practices and causing water pollution.  | To Governor  |
| HB 470 | Monitor         | Gooch                | Administrative hearings held by the EPPC be finished within a 180-day window; set procedures for requesting an extension.   | In House for Concurrence with Senate Changes                 |
| HB 508 | Monitor         | Wilkey, et al        | Delineates the allowable public uses for eminent domain in the Commonwealth; replace "public purpose" with "public use". Exempt state and federal roads   | Posted in House for Concurrence with Senate Changes March 20 |
| HB 538 | Support         | Webb, Brinkman       | Creates cost recovery mechanism for "clean coal" technology through rate recovery means similar to the Environmental Cost Recovery fees.  | Posted House Tourism Development & Energy                    |
| HB 558 | Support         | Barrows              | Allow local governments to create by ordinance a purchase of development rights program, allow use of local funds, gifts, devises, grants, bequests and other appropriations.   | Recommitted House Approp & Revenue                           |
| HB 560 | Support         | Nelson               | Requires recording and reporting of coal haul weight loads to better enforce the weight haul limits.  | House Transportation   |
| HB 573 | Support HCS1    | Collins, Hall, Meade | Bill has been modified to strengthen rules for installation and monitoring of onsite sewage facilities. Requires Health Dept to complete site evaluation 15 days from application.  | Senate Licensing, Occupations, & Admin Regulations           |
| HB 574 | Oppose          | Simpson              | Require that if the material comprising a container's label, base cup, layer of resin, or other plastic component is different but of the same predominant resin comprising the bottle or container then the container shall be labeled the same as the plastic container; and the word "OTHER" and the number "7" if the material comprising the product label, base cup, layer of resin, or other plastic component is not compatible for the purposes of recycling with the material comprising the bottle or container. | House 2 <sup>nd</sup> Reading, to Rules                      |
| HB 600 | Monitor         | Barrows              | Constitutional amendment to allow up to 9 casinos. No longer designate a portion of proceeds to land conservation.  | House 2 <sup>nd</sup> Reading, to Rules                      |
| HB 626 | Oppose          | Pullin, Ballard      | Make the Public Service Commission consider the interstate benefits expected to be achieved by proposed construction of electric transmission facilities.   | Senate 2 <sup>st</sup> Reading, to Rules                     |
| HB 634 | Oppose          | McKee                | Transfer one million dollars from the petroleum environmental assurance fee to the Department of Agriculture to pay for the motor fuels quality program.  | Senate Approp. & Revenue                                     |
| HB 642 | Support         | Adams, Webb          | Establish a tax credit for conservation easements donated for wildlife-associated public access.  | House Recommitted to Approp & Revenue                        |
| HB 661 | Monitor         | Draud                | Weakens state oversight of local sanitation districts.  | House Natural Res. & Env.                                    |
| HB 665 | Needs Amendment | Pullin, Lindsay      | Define a demonstration project for coal-based production of hydrogen and electricity as a qualifying electric generating facility. Exempts the project from merchant plant siting process.  | Senate, 2 <sup>nd</sup> Reading, to Rules                    |
| HB 669 | Strong Support  | Arnold, McKee        | Require state agencies to purchase Kentucky-grown agricultural products if the vendor can meet quality and pricing requirements.  | Senate Ag & Natural Resources                                |
| HB 726 | Strong Oppose   | Edmonds, et al       | Require UK to seek the removal of the "lands unsuitable for mining" designation from all or portions of E.O. Robinson Forest; allow for coal and mineral mining planning and activities; provide that royalties and other income from mining be apportioned between the Robinson Agricultural Experiment Station (10%) the Robinson Scholars program (40%) and the University of Kentucky for research (50%).   | House Natural Res & Env.                                     |
| HB 742 | Support         | Wuchner              | Make any utility establish a voluntary energy cost assistance fund.   | Senate   |

|         |                |   |   |                                 |
|---------|----------------|---|---|---------------------------------|
| HB 746  | Monitor        | Webb                                      | Require the EPPC develop a watershed-based planning program for the nine major watersheds in Kentucky; provide requirements for the membership of planning and administration of watershed-based planning councils; require that area development districts provide support to councils and have authority to contract; provide for submission from councils of watershed-based plans to the Division of Water; require the cabinet to promulgate regulations.  | House Natural Resources & Env.  |
| HCR 24  | Monitor        | Brinkman                                  | Urge the US Congress to amend the Constitution to protect the citizens from government takings for private economic development.  | House Judiciary                 |
| HCR 28  | Strong Support | Webb                                      | Create a task force to study ways to increase recycling of electronic waste; report to LRC by Dec. 1, 2006.   | Senate Ag. & Natural Res.       |
| HCR 115 | Support        | Adams                                     | Would reauthorize the Task Force on Funding for Wildlife Conservation.  | Governor's Desk                 |
| HCR 120 | Strong Support | Webb, Burch, Cherry, Clark, Pasley, Siler | Would create a Land Stewardship and Conservation Task Force to study strategies for protection of natural areas, farmlands, habitats and forests. This is a KCC initiative.   | Governor's Desk                 |
| HCR 174 | Monitor        | L. Clark, et al                           | Urge that the Mayor of Metro Louisville, the Director of the Metro Louisville Air Pollution Control District, members of the Louisville Metro Council, members of the Louisville delegation to the General Assembly, representatives from Ford Motor Company, a representative from the United Auto Workers, the president of Greater Louisville Inc., and the secretary for the Cabinet for Economic Development evaluate the Louisville STAR air toxics program in terms of its impact on Ford Motor plants and other existing entities, and to economic development. | Senate State & Local Gov.       |
| HJR 188 | Monitor        | Nelson                                    | Direct the Department of Agriculture to reauthorize the Forest Health Task Force for a period of two years.   | House Natural Res. & Env.       |
| HJR 193 | Support        | Webb                                      | Direct the Environmental and Public Protection Cabinet to promulgate administrative regulations for emergency action plans for high or significant hazard impoundment dams.   | Senate Ag & Natural Resources   |
| HJR 202 | Oppose         | Webb                                      | The Transport. Cabinet is directed to develop a pilot project to allow the trimming and pruning of vegetation on state owned rights-of-way (in front of billboards).  | Recommitted to Approp & Revenue |
| HR 149  | Support        | Marzian                                   | Urge creation of dedicated funding source for public transportation.  | Adopted                         |
| HR 155  | Support        | Riggs                                     | Urge the Division of Water to submit a general summary of the water quality monitoring program and the status of Kentucky water quality to the LRC, local governments, and citizens.  | Adopted                         |

***The Earth Needs a Friend in Frankfort***

**Please check all that apply:**

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KCC thanks **Plangaphics**, Frankfort, KY for *KCC Alert* production assistance.

**Internet Access to the Alert**

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

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