

# KCC Alert



Kentucky Conservation Committee

February 28, 2009

## KCC's To-Do List:

- **URGENT:** ask your representative **TODAY** to vote **NO** on **SB 13**; also, express your opposition to House Speaker Stumbo and Floor Leader Adkins. See stories on this page and on page 4.

## SB 13 passes Senate & House committee; floor vote on nuclear storage will come soon

A bill that will effectively end Kentucky's quarter-century moratorium on nuclear generating plants will move to the House floor this week.

SB 13, sponsored by Senator Bob Leeper of Paducah, passed the Senate and won approval Thursday by the House Tourism and Energy Committee in a 12-6 vote. Sen. Leeper has the support of Energy and Environment Secretary Len Peters, who testified for the bill as consistent with the Governor's energy plan.

The bill would permit on-site storage of nuclear waste. Kentucky law currently requires plans for permanent disposal of nuclear waste approved by the federal government before licensing.

There are no approved federal waste resources; Yucca Mountain in Nevada has been planned as a disposal site, but the Obama administration scrapped planning money last week. Furthermore, Yucca Mountain

will be fully subscribed by existing plants if it becomes operational.

Sen. Leeper argued that the bill would make it possible to "open the conversation" about nuclear power as an alternative in Kentucky.

## New green standards for state projects

Gov. Steve Beshear announced green standards for public building construction on February 18 that he said will further establish Kentucky as a national leader in the "greening" of public buildings.

The initiative originated with KCC and requires new public facilities built with 50 percent or more state funds to be designed according to nationally recognized energy efficiency standards.

The regulations for new construction issued today by Finance Secretary Jonathan Miller are based on House Bill 2, which was sponsored by Rep. Rocky Adkins and passed by the General Assembly in 2008. The standards look to the industry standard, LEED.

—eye on the session—

## Energy issues tangle with environmental goals

By Bruce Williams,  
KCC Legislative Agent

It was a most illuminating week in Frankfort, and one that illustrates the latest dilemma for those of us interested in a cleaner environment. It can all be summed up in a word—energy.

The issues of energy—including energy efficiency, alternative energy sources, bio fuels and energy independence—have gotten so entangled that most legislators can't separate one from the other. A good example is SB 13 that eliminates the disposal requirement for new nuclear facilities.

While there were several no votes (including Representatives Tom McKee and Robin Webb) and some hard questions by Rep. Kelly Flood, it was clear that most of the committee members saw nuclear as simply another link in the "clean" energy chain.

We must work to make clear that it is a sustainable energy future we seek and not just plentiful and cheap power and independence from foreign oil at the price of higher food costs, more mountaintop removal and another Maxey Flats.

We all hopped on the "energy" train when we thought its destination was clean, sustainable energy technology that would move us toward self-sufficiency that would assure long-term environmental health. That is not necessarily the train's direction at this junction. It soon may be that environmentalists will be forced to leave their seats on the "energy train"—at least until it's final destination becomes a little clearer.

*A statement of KCC's position on nuclear waste is on page 4.*

## 2009 Kentucky General Assembly

### House Leadership

**Speaker:** Greg Stumbo

**Speaker Pro Tem:** Larry Clark

	<b>Majority (D)</b>	<b>Minority (R)</b>
<b>Floor Leader</b>	Rocky Adkins	Jeff Hoover
<b>Caucus Chair</b>	Robert Damron	Bob DeWeese
<b>Whip</b>	John Will Stacy	David Floyd

### Key House Committees

#### *House Agriculture and Small Business*

Tom McKee, chair; Royce W. Adams, John A. Arnold, Dwight W. Butler, Mike Denham, Richard Henderson, Ken Upchurch, vice chairs; Johnny Bell, Mike Cherry, James R. Comer, C. B. Embry, Jeff Greer, Jimmy Higdon, Charlie Hoffman, Martha Jane King, Brad Montell, Fred Nesler, David Osborne, Don Pasley, Tom Riner, Steven Rudy, Dottie Sims, Kent Stevens, Wilson Stone, Tommy Turner, Susan Westrom.

#### *House Natural Resources and Environment*

Jim Gooch, chair; Tim Couch, Keith Hall, Fitz Steele, and Jim Stewart, vice chairs; Hubert Collins, Stan Lee, Reginald Meeks, Tim Moore, Don Pasley, Marie Rader, Kevin Sinette, Robin Webb.

#### *House Tourism Development and Energy*

Eddie Ballard, chair; Mike Harmon, Ancel Smith, Fitz Steele, Ron Weston, vice chairs; Royce Adams, Larry Clark, Leslie Combs, Bob DeWeese, Myron Dossett, Kelly Flood, Jim Gooch, Keith Hall, Thomas Kerr, Martha Jane King, Tom McKee, Tim Moore, David Osborne, Robin L. Webb.

### Senate Leadership

**Speaker:** David Williams

**Speaker Pro Tem:** Katie Stine

	<b>Majority (R)</b>	<b>Minority (D)</b>
<b>Floor Leader</b>	Dan Kelly	Ed Worley
<b>Caucus Chair</b>	Dan Seum	Johnny Ray Turner
<b>Whip</b>	Carroll Gibson	Jerry Rhoads

### Key Senate Committees

#### *Senate Natural Resources and Energy*

Tom Jensen, chair; Brandon Smith, vice chair; David Boswell, Ray S. Jones, Bob Leeper, Dorsey Ridley, John Schickel, Katie Stine, Robert Stivers, Gary Tapp, Johnny Ray Turner.

#### *Senate Economic Development, Tourism, and Labor*

Alice Forgy Kerr, chair; Gary Tapp, vice chair; Julian M. Carroll, Julie Denton, Denise Harper Angell, Ray S. Jones, Jerry P. Rhoads, Katie Stine, Jack Westwood, Ken Winters.

#### *Senate Agriculture*

David Givens, chair; Vernie McGaha, vice-chair; David Boswell, Ernie Harris, Dan Kelly, Bob Leeper, Joey Pendleton, Dorsey Ridley, Kathy W, Stein, Damon Thayer, Ken Winters.

### Calendar

- February 3: Part II convenes
- Feb 13: Last day for new Senate bills
- Feb 23: Last day for new House bills
- March 12, 13: Concurrence

**The committee thanks Plangraphics, Inc., for the use of their facilities in Frankfort in the production of the Alert.**

### Contacting Legislators

**Who are my legislators?** Representative s and Senators are listed by county at [www.lrc.ky.gov/Legislators.htm](http://www.lrc.ky.gov/Legislators.htm). Or, input your address at <http://vote-smart.org>. Or, call your county clerk.

**How do I communicate with legislators?** Legislators want to hear from their constituents. You have several options—use the telephone numbers in the box below.

**Leave a message:** The legislator message line will get you an operator who will take the message you dictate, no questions asked. Include the Bill Number in your message. You may call 7 am to 11 pm ET M-Th, 7 am to 6 pm F.

**Send a fax:** A fax can be addressed to individual members, members of a committee, or members of the House or Senate.

**Send email:** Email addresses are available here:

<http://www.lrc.ky.gov/whoswho/email.htm>

Some legislators respond to email; some do not.

**Send postal mail** to the Capitol Annex, Frankfort, KY 40601.

**Call direct:** Legislators are very busy during the session, but many will try to take time to talk to a constituent.

**What do I say?** Your message can be as simple as “Please oppose House Bill 888.” You don’t have to be an expert.

Sharing relevant personal experiences can be *very* effective.

### Important Phone Numbers

Legislator Message Line: 1-800-372-7181

Legislator Fax Line: 502-564-6543

To talk directly 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

EPPC Secretary: 502-564-3350

### Learn More about Bills

The Legislative Research Commission’s website posts bills and amendments and is updated nightly:

<http://www.lrc.ky.gov/legislation.htm>

It works best with MS Explorer.

If you want to track a particular bill or subject area through email updates, subscribe to the “Bill Watch” service here:

<http://kentucky.gov/services/billwatch/>

### 2009 KCC Board of Directors

**Vicki Holmberg**, Lexington, President

**Russ Barnett**, Lawrenceburg

**Ray Barry**, Lexington

**Ramesh Bhatt**, Lexington

**W. Horace Brown**, Bagdad

**Wm Bryant**, Lawrenceburg

**Susan Bush**, Lexington

**Greg Kuhns**, Louisville

**Wm Martin**, Lexington

**Andy McDonald**, Frankfort

**Bruce W. Scott**, Frankfort

**David Wicks**, Louisville

**Jack Wilson**, Lexington

**Pam Wood**, Harrodsburg

KCC Lobbyist: **Bruce Williams**

502-863-5938; cell: 859-221-1132

The **Kentucky Conservation Committee** is not associated with the “Kentucky Conservation Coalition.”

# Bill Summaries and KCC Positions

**NOTE:** At our meetings during the session, the board of KCC tracks bills before the General Assembly that fall within our mission and considers what KCC's position on them should be. Bills that are central to our mission are identified as "**Priority**" for work by our lobbyist and to encourage communications with legislators by our members. The newsletter is sent out immediately after our meetings and should be inclusive of legislative activity up to the Friday evening prior to your receiving this newsletter. **Information that has been added to or changed from our last newsletter is in bold.**

## Senate Bills

Bill No	KCC Position	Priority	Sponsor	Summary	Status/Committee
SB 7	Monitor		Tapp, Seum	cf HB 21, 81, 135. Allows low-speed electric vehicles to use highways with a posted speed limit of <b>45</b> mph or less; requires title, registration, insurance.	S-Trans
SB 12	Study		Pendleton	Requires fuel terminals to sell ethanol blends; permits biodiesel and ethanol blended gasoline to be freely blended for retail.	S-NR & E
SB 13	Oppose		Leeper	Changes "means for permanent disposal" to "plan for storage" for nuclear waste in criteria for PSC approval of nuclear power facilities.	<b>Passed S H-Rules</b>
SB 27	<b>Support</b>		Leeper	Establish a brownfield development fund.	<b>Passed S H-NR &amp; E</b>
SB 49	Oppose		Thayer	Prohibits charging stormwater rates against unsewered customers.	S-S & LG
SB 51	Strongly support		Harris	Authorizes PSC to require demand-side plans from utilities and to review and approve them.	S-NR & E
SB 52	Support		Jones	Requires emergency action plans to include information to expedite medical air evacuation from mine sites.	<b>Passed S H-NR &amp; E</b>
SB 55	Oppose		Jones	Makes new coal generating plants and modifications to existing plants eligible for the HB 1 incentives.	S-A & R
SB 63	Support		Harper Angel	Creates an e-scrap recycling program requiring registration of manufacturers and their recycling plans, prohibits sale of non-registered equipment after 2011, separates e-scrap from regular waste after 2014, provides for fines, and establishes a trust fund from fees. <b>CS</b>	<b>Recomm S-NR &amp; E</b>
SB 64	Monitor		Jensen	Amends law to conform repair of mine ventilation fans with MSHA standards.	<b>Passed S H-NR &amp; E</b>
SB 66	Oppose		Boswell	Adds crude oil from tar sands to the definition of alternative fuels eligible for incentives under HB 1; sets minimum investment at level for coal.	S-NR & E
SB 84	<b>Support</b>		<b>Givens</b>	<b>Requires reports from state agencies on purchases of KY-grown agricultural products.</b>	S-Rules
SB 89	Oppose		Denton	Requires a nonprofit with budget less than \$10m to retain an attorney and CPA to sign state government contracts, explain them to the non-profit's board, and attend all meetings of the board; requires minutes of each board meeting sent to contracting agency.	S-S & L Govt
SB 99	Support		Stein	Requires state agencies and institutions to annually report amounts of recycled waste except aluminum.	S-NR & E
SB 100	Strongly Support		Stein	"Stream saver" bill. Cf HB 104.	S-NR & E
SB 131	Support		Pendleton, Stein	Authorizes agricultural production of "industrial hemp" regulated by Dept of Agriculture; authorizes random testing by county sheriffs.	S-Ag
SB 134	Support		Ridley	Requires regulation of gas well tank batteries; authorizes forfeited bond fees for reclamation of batteries and lines at abandoned wells.	S-Rules

## Senate Bills (cont'd)

Bill No	KCC Position	Priority	Sponsor	Summary	Status/Committee
SB 138	Strongly Oppose		Jensen, Stivers	Authorizes the Finance Cabinet to lease mineral rights on lands owned by the state or by public universities; proceeds of sales to agency of deed record, not General Fund. Cf SJR 67.	Passed S
SB 156	Support		Thayer	Doubles maximum output of "small farm wineries."	S-LO & AR

## Senate and House Resolutions

Bill No	KCC Position	Priority	Sponsor	Summary	Status/Committee
SJR 37	Strongly Support		Jones	Requires EPPC regulations for emergency action plans for high-hazard -potential dams. Cf HJR 119	S-NR & E
HJR 7	Oppose		Edmunds	Directs UK to study potential impact of mining in Robinson Forest on forests and streams. <b>NOTE:</b> Robinson Forest has been designated "lands unsuitable for mining."	H-NR & E
SJR 67	Monitor		Jensen	Directs Dept of Energy to contract with KY Geo Survey to study potential oil and gas reserves on lands owned by state agencies and public universities. Cf SB 138.	Passed S
HJR 116	Oppose		Hall	Gives infrastructure funding priority to coal-to-liquid projects.	H-Rules
HJR 119	Oppose as amended		Webb	Requires EPPC regulations for emergency action plans for high-hazard-potential dams. Cf SJR 37.	H-Rules
HJR 126	Monitor		Adkins	Express support for KGS study of carbon sequestration research.	H-Rules
HJR 152	Oppose		Comer	Requires study of economic incentives for large-scale dairy ops.	H-Ag & SB

## Maxey Flats and the case against on-site nuclear waste storage

*Editor's Note: the following remarks were delivered by KCC board member Jack Wilson at a recent press conference called by Kentuckians for the Commonwealth on SB 13.*

In the late 1950s, Kentucky jumped to implement President Eisenhower's Atoms to Peace program and we were the first state to be permitted to operate a nuclear waste disposal site--Maxey Flats.

Governor Bert Combs wanted to develop a nuclear park using Research Triangle Park as a model. Kentucky built an office building and a nuclear waste disposal facility in Maxey Flats, in Fleming County, to encourage nuclear companies to move to Kentucky.

**They didn't.** The building was rented to the Council of State Governments for \$1 per year; the waste disposal site began leaking in the 1970s, and has been closed and temporarily sealed under the direct supervision of state government.

Kentucky currently spends close to \$1 million a year to maintain Maxey Flats and we are the Principle Responsible Party on the hook under the Comprehensive Environmental Response and Liability Act (CERCLA), to pay for its final closure. Estimates

for closure range as high as \$100 million. Less than one percent of Maxey Flats' waste originated in Kentucky.

This experience should be sufficient to contemplate where we want to go in the future. To build nuclear plants without a disposal plan opens the state to increased liability for future cleanups. Companies come and go as we have seen in the past year, but governments continue indefinitely, and the law when it goes after responsible parties will ultimately seek redress from governments if there are no private firms left solvent.

**Our position is this:** The most viable source of energy and the one that will create the most green jobs for Kentuckians in Kentucky is energy conservation. It meets energy needs by reducing demand. In the midterm (5-20 years) we should look at Kentucky-based renewable energy sources such as solar, biomass, hydropower, and wind. Only in the long-term should we begin to consider nuclear energy.

Nuclear energy, even if this bill passes, will not meet the short or midterm needs of the state and has the potential for significant liabilities. This is essentially what the Governor's plan lays out, but SB13 focuses on a long-term option that has a major component missing--the disposal issue. We need to have the discussion of how this will occur so we do not repeat the mistakes of Maxey Flats.

## House Bills

Bill No	KCC Position	Priority	Sponsor	Summary	Status/Committee
HB 21	Monitor		Riggs, Clark	cf SB 7, HB 81, 135. Allows low-speed electric vehicles to use highways with a posted speed limit of <b>35</b> mph or less; requires title, registration, insurance. <b>Committee substitute adds "alternative-speed motorcycle."</b>	<b>Passed H</b>
HB 34	<b>Support</b>		Marzian	Adds a representative of the Brain Injury Assn to the KY Recreational Trails Authority.	H-TD & E
HB 53	<b>Oppose as amended</b>		Edmonds et al	Requires titling of ATVs. <b>Committee substitute prohibits registration.</b>	<b>passed H S-Trans</b>
HB 65	Monitor		Meeks	Permits F & W staff to assist the KY F & W Foundation.	H-NR & E
HB 81	Monitor		Yonts	cf SB 7, HB 21, 135. Allows low-speed electric vehicles to use highways with a posted speed limit of <b>45</b> mph or less; requires title, registration, insurance.	H-Trans
HB 84	Monitor		Glenn et al	Authorizes lifetime hunting/ fishing licenses for persons 65 and older.	<b>H-Rules</b>
HB 88	Monitor		Wayne et al	Establishes offense of vehicular assault of a bicyclist or pedestrian.	H-Judiciary
HB 91	Monitor		Denham	Defines "agro-terrorism": "Using any biological, chemical, or radiological agent against, or damaging or destroying, any agricultural facility, agricultural equipment, or agricultural product with the intent to deprive the public of a source of food or water or adversely affect the agriculture industry, the economy, or the public."	H-Judiciary
HB 92	Support		Yonts	Extends registration deadline for petroleum storage tanks to 2015.	H-NR & E
HB 104	Strongly support		Pasley	"Stream-Saver" Bill. Prohibits placing mining spoil in streams.	H-NR & E
HB 119	Oppose		Hall et al	Reduces number of required emergency-trained staff from two to one in mining operations with fewer than 18 employees.	<b>H-Rules</b>
HB 122	Monitor		Nelson, Denham	Requires teaching of "fire ecology" in core science curriculum.	H-Edn
HB 127	Monitor		Rollins et al	Reduces duration of scenic easements on property owned by air boards from 30 to 20 years.	<b>Passed H S-Judiciary</b>
HB 135	Monitor		Higdon	cf SB 7, HB 21, 81. Allows low-speed electric vehicles to use highways with a posted speed limit of <b>45</b> mph or less; requires title, registration, insurance.	H-Transpntn
HB 160	Study		Meeks et al	Requires state agencies and universities to estimate recycled waste.	<b>Passed H</b>
HB 162	<b>Support</b>		Pullin et al	Reduces property taxes on land used to produce "energy feedstocks" (eg switchgrass) on voluntarily-remediated brownfields.	<b>Passed H S-NR &amp; E</b>
HB 172	<b>Support</b>		McKee, Osborne	Clarifies land size (min 5 acres), duration of use, and uses of lands that qualify for an agricultural district; requires conservation district to consider comprehensive and drinking water facilities plans before approving; requires periodic reviews.	<b>Passed H S-Ag</b>
HB 178	Strongly support	✓	Adkins, Steele	Re-enacts HB 2, including "High Performance Building" requirements for state offices and conservation incentives. HB 2 passed the 2008 session after midnight of the last day.	<b>Passed H S-NR &amp; E</b>
HB 205	Monitor		Riggs et al	Requires impairment as basis for lawsuit for cancer from silica dust.	H-Judiciary

## House Bills (cont'd)

Bill No	KCC Position	Priority	Sponsor	Summary	Status/ Committee
HB 211	Support		Combs	Includes "removal of woody biomass" in definition of "timber harvesting operations" related to forest conservation law; restricts exemption for firewood to personal use.	H-Rules
HB 215	Support		Flood	Expands coverage of the Environmental Trust Fund to "environmentally beneficial projects;" prohibits funds for routine EPPC activities. <b>Committee Substitute better defines eligible projects.</b>	Passed H
HB 217	Monitor		Floyd	Amends the KY constitution to permit 5% of registered voters for a statute and 8% for a constitutional amendment to petition for a ballot initiative that must be constitutional and cannot be vetoed.	H-ECAIA
HB 224	Support		Wayne, Clark	Exempts vegetable oil from motor fuels tax for five years.	H-A & R
HB 235	Support		McKee, Denham	Establishes a "Forest Health Board" related to identifying/ prioritizing threats; includes Woodland Owners Assn; requires the Division of Forestry's education program to include fire prevention.	Passed H S-NR & E
HB 245	Support		Collins	Designates Heritage Lands nature license plates as the official "green license plate."	recomm H-Transpt
HB 266	Support		Napier	Creates a "Go Green" license plate with proceeds payable to Kentucky PRIDE.	H-Transpt
HB 285	Oppose		Adkins	Establishes tax incentives for a pilot "clean coal" generating plant with certain carbon capture or sequestration <i>capabilities</i> greater than 300 mw if federal incentives become available.	H-Rules
HB 344	Support		McKee et al	Establishes an agricultural commodities program that distributes to food banks.	Passed H
HB 345	Support		Stewart	Exempts geo-thermal heat pumps from sales and use tax.	H-A & R
HB 351	Monitor		Adkins et al	Establishes requirements for demonstration carbon sequestration projects authorized by the General Assembly and developed in collaboration with the UK Center for Applied Energy Research and KGS; projects supervised by KGS, all liabilities and benefits accrue to KY.	H-NR & E posted
HB 376	Oppose		Rudy et al	cf SB 13. Changes "means for permanent disposal" to "plan for storage" for nuclear waste in criteria for PSC approval of nuclear power facilities.	H-TD & E
HB 396	Support		Combs	Authorizes Div of Forestry to investigate forestry-related crimes, defines investigators as peace officers, and gives AG, Commonwealth and County attorneys jurisdiction to prosecute.	H-NR & E
HB 397	Support		Combs	Increases maximum penalties for "bad actor" loggers and strengthens enforcement provisions.	H-NR & E
HB 422	Needs Revision		Belcher et al	Permits inter-jurisdictional commissions for establishing wastewater treatment plants.	H-Loc Govt posted
HB 452	Oppose		Gooch	Specifies how plans for drilling through coal mines will be permitted. Decreases the buffer from 500 to 300 feet.	H-Rules

## House Bills (cont'd)

Bill No	KCC Position	Priority	Sponsor	Summary	Status/Committee
HB 481	Support		Combs	Requires seller of timber to demonstrate title to the timber.	H-NR & E
HB 485	Support		McKee	Removes statutory cap of \$125 on registration of a pesticide with Dept of Agriculture, cost to be set by regulation.	H-Ag & SB posted
HB 492	Support		Steele	Encourages pollinator habitat on reclaimed mine lands.	H-NR & E
HB 522	Oppose		Nelson	Directs KY F & W to designate horse trails on suitable F & W lands in certain coal-producing counties.	H-TD & E
HB 537	Oppose		Adkins	Establishes a "Renewable and Efficiency Portfolio Standard" for utilities to set goals (but not standards) consistent with the Governor's Energy Plan; provides tax incentives for ethanol from algae and cellulose and petroleum from oil shale and tar sands.	H-Rules



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



**Join KCC!**

The Kentucky Conservation Committee advocates with the members of the General Assembly for the environmental and conservation concerns of its members.

***Size matters! Join or contribute today!***

**KCC Membership Application**



**Please check all that apply:**  
 \$25 (individual)  \$35 (family)  \$15 (limited income)  \$50 (contributor)  \$100+(patron)  \$365 ("365 Club")

Total Enclosed: \$ \_\_\_\_\_

Name: \_\_\_\_\_ My state representative (if you know): \_\_\_\_\_

Address: \_\_\_\_\_ My state senator (if you know): \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_ - \_\_\_\_\_ Home phone: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Email address: \_\_\_\_\_

Because one of KCC's main activities is influencing legislation, contributions are **not** tax deductible.  
 Please send your check and membership information to: **KCC, P.O. Box 1152, Frankfort, KY 40602.**