

The Kentucky Conservation Committee

Guardian

A Review of Kentucky's Commitment to Protecting
Its Environment and Conserving Its Natural Resources



P.O. Box 1152, Frankfort, KY 40602

Fall 2002

Budget and Tax Reform To Dominate 2003 Session

Legislators appearing at the KCC Annual Meeting predicted that budget and tax reform issues will dominate the short 30 day 2003 session.

Making the prediction were Senator Ernie Harris, Chair of the Agriculture and Natural Resources Committee and Representative Jim Wayne, Vice Chair of the Local Government Committee. The two legislators answered participants' questions during a panel discussion at the KCC Annual Meeting. Sen. Harris: sponsored SB 257, the Power Plant Siting bill and Rep. Wayne sponsored HB 465 Creation of Urban Service Boundaries and HB 355 Campaign Finance reform. They spoke on these and other topics at the Sept. 14 confab. Their comments are summarized here.

Budget Battles and Campaign Finance Reform

The Republican/Democrat dispute over public funding for the governor's race has left Kentucky without a proper budget. Senator Harris, for one, believes it is dangerous to not have legislative approval of the budget. A bad precedent has been set. "What is to stop future governors from vetoing the budget and running the state by edict?" he asked.

The budget situation is deteriorating, according to Sen. Harris. There is a revenue shortfall of \$200 million just since January. The Governor has not taken this into account in his spending plans. The Senator thinks this makes the issue much bigger than campaign finance.

"The governor's race will not be funded," the Republican Senator declared and claimed his constituent letters are running 30 to 1 against it. Money will flow to the candidates with or without public funding, he argued, it will either go to the parties or the candidates.

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Life After Smart Growth Report

One year after the Governor's task force on Smart Growth produced its thick glossy report on the problems and opportunities facing Kentucky communities, where are we headed? Harry Carver, representing the Governor's Office, addressed this question at the KCC annual meeting, Sept 14 in Shakertown.

The Governor appointed Mr. Carver to head up the Progress Commission within the Governor's office. The Progress Commission arose as the next logical step after the Smart Growth Task Force. Its mission is to advocate quality growth across the commonwealth.

According to Carver, the Smart Growth Task Force tried very hard not to polarize the stakeholders. Their mission was to lay out the issues and present some alternatives. The report was a consensus work that recommended coordinated growth of infrastructure, investment in city cores, and preservation of

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Lobbyist Position Open

KCC is seeking a qualified person to represent its members and board before the state legislature. This is a part year, contract based position. Qualifications considered in the hiring process include good oral and written communication skills, familiarity with the legislature and legislators, ability to match schedule to the legislature, knowledge of environmental issues, reliable access to Frankfort. For more information contact Russ Barnett, 502-839-1227.

KCC's Top Ten 2003 Legislative Priorities

1. Smart Growth Legislation
2. Campaign Finance Reform
3. Protect Mammoth Cave
4. Full Cost Accounting for Power Plants
5. Net Metering (Reverse Electric Metering)
6. Container Deposits
7. Mountain Top Removal/ Valley Fill
8. CAFO/ Integrator Liability
9. Forest Issues
10. Require Off Highway Vehicle Registration

Budget and Taxes to Dominate 2003 Session

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Rep. Wayne agreed that the legislature had abdicated its power. He believes the Governor made a tactical mistake to run the state by executive order. The governor should have shut down the state and forced a crisis. The legislature would have been forced to face tax restructuring. We have a crisis in our tax structure, according to Rep. Wayne, that is causing our revenue shortfall.

Tax Reform

Tax reform is necessary, agreed Sen. Harris, to eliminate some unfairness. As an example, he pointed out that cable and satellite companies are taxed differently, giving satellite companies an unfair advantage.

The main problem, according to Sen. Harris, is that we have an antiquated tax system. Currently, taxes are based on infrastructure but many new businesses are light on traditional infrastructure.

"It is a mess," complained Harris. We have 50 different taxes, licenses and fees in this state. We need to pass tax reform in January that will fix the system.

In order to accomplish such a monumental task, the House, Senate, and Administration will need to agree on a plan, then disallow any amendments. It will need to be a package deal, he predicted.

Our tax system is a patchwork pieced together based on a manufacturing economy, further explained Rep. Wayne.

Another reason for tax reform, according to Wayne is that we have a regressive tax system where the bottom 20% are taxed at a 12% rate and the top level incomes are taxed at 10%. Our working poor are taxed worse than any other state except Alabama, Wayne pointed out.

Power Plant Siting

By serving on the Electric Industry Restructuring Task Force, Senator Harris says he gained an understanding of where the electric industry was going with deregulation.

In considering deregulation, he believes in the medical principle "First do no harm." We should understand what other states are doing and take a "go slow" approach, Harris philosophized.

He noted that Kentucky is interesting to a deregulated market because we are crossed by a lot of national gas pipelines and interstate transmission lines. The confluence of the two is good for merchant power plants seeking to sell peaking power. Peaking power must come on-line fast, so gas turbines are preferred, and a long distance distribution network is necessary.

To demonstrate the impact of deregulation on Kentucky, Sen. Harris reported that in 1990 there were no power plant applications, in 2000 there were 12 applications, and in 2001 there were 29 applications. He predicts, however, that only 8 to 10 will actually be built.

Once constructed power plants only employ a few people. They are not major employers, Harris noted. The state does not want to give up its precious energy credits for just a few jobs, they would prefer to save them for a large employer.

Sen. Harris says the key issues of concern in regard to these

merchant plants are 1.) Who controls the plants? The Public Service Commission has no jurisdiction over them since they don't sell power to Kentucky consumers. 2.) Is there any local input on these plants? 3.) Are the rules consistent for the regulated power plants and the merchant plants? 4.) What type of special considerations are there for regeneration (use of existing stream to generate power).

In producing SB 257, Sen. Harris expressed pride in the fact that all viewpoints were represented, everyone got to have their say. He believes that everyone at the table got 75% of what they wanted.

According to Sen. Harris, key features of the siting bill are:

1.) All necessary upgrades to the power distribution network are the responsibility of the power merchant. Kentucky consumers are not to pay.

2.) The power plant siting board consists of the Public Service Commission, the Secretary of the Natural Resources and Environmental Protection Cabinet (NREPC) or his designate, the Secretary for Economic Development or his designate, and a local representative.

3.) The job of the siting board is to look at aesthetic issues.

4.) Setbacks are required from the property line, schools, and nursing homes.

5.) A local (not in Frankfort) hearing by the siting board is to be held if requested.

6.) The siting board must reach a decision in 90 days.

The most difficult issue to solve, Sen. Harris said, was what to do about environmental protection. We need to look at the cumulative impacts, but industry insisted that the standards we use be the existing standards, not new ones. The primary environmental concern was air quality. In the end, since NREPC does all the permitting, they were given the task of evaluating the cumulative environmental impacts as part of the permitting.

Smart Growth

Rep. Jim Wayne has been the foremost proponent of Smart Growth in the legislature, introducing numerous bills related to the issue over the past several sessions.

Land consumption, notes Rep. Wayne, is faster than population growth. It is draining the wealth out of the core urban areas and from the population left behind. It leaves behind the poor while increasing traffic and pollution.

The ideal way to grow, according to Rep. Wayne is:

1.) Coordinate the policy makers that are planning for growth. This includes police, fire, schools, sewers, water, and gas.

2.) Use common sense to coordinate the growth of the infrastructure to maximize the efficiency of delivery of services.

In Senator Harris' view, we have screwed up planning by not allowing mixed use development and we have created the soccer mom. Education is needed to fix this problem. He did not expound on what type of education he was referring to.

80% of the population is covered by planning and zoning, Harris proclaimed. The rest, he said, don't want it and the reaction is intense. Consequently, he maintains the General Assembly views planning and zoning as a local issue. There is not a lot of support for planning and zoning in the legislature.

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Organized by the
Kentucky Conservation Committee,
an organization of citizens who work for
progressive environmental legislation

Kentucky Voices

an evening to benefit the protection
of Kentucky's natural resources
featuring Kentucky authors

Thomas Barnes

Kentucky's Last Great Places

Linda Scott De Roser

Creeker: A Woman's Journey

Silas House

Clay Quilts and a Parchment of Leaves

Creol Cridhe, Irish & Scottish Music Trio

Friday, Nov. 1, 2002

7:00-9:00 p.m., Old State Capitol

300 West Broadway, Frankfort, Kentucky

Suggested Donation:

\$8 Adults

\$5 Students

Children under 12 free

No advanced ticketing.

Seating is on a first come,
first seated basis.

Artwork by Laurie Schimmoeller

Environmental Educators Celebrate Passage of HB 174

North American Association for Environmental Education (NAAEE) announced at the KCC annual meeting the presentation of a National Award to Representative Greg Stumbo for his leadership role in sponsoring HB174. HB174 contained funding for the Kentucky Environmental Education Master Plan. Representing NAAEE was Joe Baust, a professor from Murray State University.

Baust expressed thanks to Wade Helm, Tom FitzGerald and KCC for helping pass HB 174 and for making sure it had the Master Plan funding.

Baust also announced that the Kentucky University Partnership for Environmental Education, comprising 8 universities, is working together to improve teacher and student environmental education. Their objective is to try to do some quality control, to ensure the quality of environmental education in Kentucky for teachers and students. They have obtained seed money from the Federal government to get started. The state funding under HB 174 is not yet available.

At the national level NAAEE has affiliated with an accreditation agency to accredit universities and teachers in environmental education. The Kentucky Environmental Education Council will eventually create its own standards for how things ought to be taught in schools and in non-formal situations like parks.

The Teacher Professional Standards Board sets how teachers are trained in Kentucky. They have been approached, according to Baust, to make Environmental Education required for teachers.

There is much resistance to these efforts in Kentucky and there is a lot of inertia to overcome, Baust said. The long term goal is to make environmental education systematic in KY.

KCC Board Election Results

Newly elected to serve on the board are:

Russ Barnett, returning.
Ramesh Bhatt, returning
Joshua Bills, new
Rosetta Fackler, new
Robin Fisher, new
Joyce Fry, new
Barbara Kelly, returning
Gary Michael, returning

Continuing the second year of a two year term are:
Dwight Hitch
Kazi Javed
Thomas Martin
Joan Noel

State of the Organization

The following is a summary of the address given by KCC President Russell Barnett on Sept. 14 at the KCC Annual Meeting.

The Vitality of an organization is measured by its membership, its achievements, its image, and the people involved.

KCC Results for 2002

The 2002 General Assembly was a mixed session. Examining the KCC priorities we have the following results:

1. Smart Growth: HB 600 (state government practices smart growth) failed to pass -. HB 465 (urban service boundaries) failed to pass.
2. Fund Environmental Education: HB174 passed and it includes funding for Env. Ed.
3. Curbside garbage collection/dump cleanup: partially successful. HB 174 includes a bond issue that will fund a small beginning to dump closure, but since there is no budget, the bonds cannot be issued.
4. Regulate CAFOs: there was no action, the issue was caught up in the courts.
5. Container Deposits: A constitutional amendment was introduced, but there was no action.
6. Stop Slurry pond: no bills were considered.
7. Straight pipes: KY Pride moves forward, but no legislative action.
8. Campaign finance reform: with the budget fight, we have taken a step backward.
9. Renew tire disposal fee: successful.
10. Tax reform/pollution taxation: no action.

Other Successes:

SB 257 Power plant siting bill passed
Underground storage tank removal funding continued
HB 244 Hazardous waste assessment fee renewed

Other Losses

Elimination the Vehicle Emissions Test in Jefferson County
Agricultural water quality plans made secret

Membership

The membership has increased, and this has helped us make it through annual sessions. We need to continue to build our base.

Image

We are viewed as being reliable and straightforward with our positions. Our members write letters, which raises our profile.

Most significantly we were asked by the Administration to help with publicity and money raising for HB 174. This is the first time we have teamed with the administration to work on a bill at their request. We are viewed as a strong potential ally.

People

The board has been active, giving up every other Saturday to review legislation and publish the newsletter.

Two departing activists were recognized: Lobbyist Wade Helm, has taken a job that will prevent him from lobbying. Ray Barry has served the maximum number of terms on the board, 7 years.

Life after Smart Growth Report

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Kentucky's unique qualities.

After the report came out, the administration looked at what could be done by executive order and what needed legislation. Budget constraints were foremost in their consideration. The following smart growth bills were introduced in 2002:

- Solid waste: a beginning step was taken in dealing with the issue with HB 174.
- Power plant siting: a comprehensive bill became law.
- Cell tower siting: local planning and zoning boards gained control.
- Mandatory planning and zoning: this was a non-starter.
- Tax credits for historic structures, affordable housing directed toward distressed areas, and infill development: given the budget situation, the Appropriation and Revenue Committee was not considering tax credits.
- Pine Mountain Trail: the state's longest state park was created.

Administrative action took many forms, reported Carver, including:

- The Finance Cabinet developed siting guidelines for government buildings. These guidelines encourage locating government buildings in urban cores, old structures, infill locations and according to other smart growth principles.
- Building codes are being revised. Current building codes require updating old buildings to current codes during remodeling. The expense of bringing old structures up to these codes discourages the reuse of old structures. The new codes will allow more flexibility in rehabbing old buildings.
- The administration intends to apply smart growth principles to school siting. They are developing new guides to encourage rehabilitation of old schools, or to locate new schools at the same location as the old schools.
- A natural and historical inventory is being conducted to catalog the resources that need to be preserved. This effort is aimed at mapping these features to provide better data for making decisions.
- A Brownfield Task Force was created to promote brownfield redevelopment.
- The Brownfields regulations that accompany the 2001 brownfields legislation are currently being promulgated.
- The Governor's office is sponsoring the exhibit "2002: A Land Odyssey, This Land is Our Land." The purpose of the exhibit is to help people envision what smart growth means. It first appeared at the state fair in August and will be travelling around the state.
- A regional planning task force has been created to encourage planning that goes beyond the political boundaries of city and county to encompass interrelated communities.

- A conference is scheduled for next May to begin to develop a school curriculum on smart growth.
- The governor established the Progress Commission to ensure continued discussion of Smart Growth issues. Its purpose is to advise the administration on Smart Growth issues and serve as an advocate for promoting wise decision making. Eventually it is expected to spin off into a non-governmental organization similar to the Pritchard Committee. The Progress Commission first met during the legislative session. It is currently refining its mission, searching for common ground and building coalitions.

Budget & Taxes... cont. from pg. 2

Vehicle Emission Testing

HB 168, signed into law this spring, eliminates the vehicle emissions test (VET) in Jefferson County. However, this summer there were 77 violations of the 8-hour ozone standard. Is there a chance, Sen. Harris was asked, that the legislature will reverse the decision and reinstate the testing?

It won't come up in the next session, responded Sen. Harris, because there has not been enough time to see the effect of the bill and because of the preoccupation with budget and taxes. The legislature will wait to see what the results of the bill are before taking any more action, he predicted.

Citizen Activism

Each of the legislators had their own view on how to be an effective advocate in Frankfort.

According to Rep. Wayne, it takes GUTS. This is an acronym he likes to use which represents:

- **Goals.** First set clear, realistic goals.
- **Unity.** Get the proponents unified behind the same goals with grass roots support.
- **Tenacity.** Be relentless, stick to what you really want but don't be inflexible.
- **Success.** With goals, unity, and tenacity you will eventually succeed.

Sen. Harris's advice was a bit more specific.

Don't send petitions, he recommended, they are discarded by legislators. They are too easy to sign, many signers don't even read them, he says.

Then too, form letters are easily recognized and don't count for much. Again, they are too easy to send, Harris said.

Personal letters, typed and sent in have the greatest impact, Harris emphasized. The effort involved shows the writer's concern and depth of interest.

Telephone calls are recorded by the receptionist on a piece of paper called a "green slip". Green slips arrive at the legislator's office organized by zip code. Sen. Harris was pretty sure most legislators only pay attention to green slips from their own districts.

Email can be effective, but make sure it is clear that you are from the legislator's district. If it's not clear where the email is from, it will be passed over, Harris advised.

Mark Your Calendar

Nov. 1 – Kentucky Voices. KCC’s annual Fund raiser. Hear Kentucky authors live. 7:00 PM Old State Capitol, Frankfort.
Jan 24- 26 -- Sierra Club Environmental Activist and Outings Leader Training, Jabez, KY 859-255-7946

Membership Application

Please Check All that Apply

\$25 (individual) \$35 (family) \$15 (limited income) \$50 (contributor) \$100 (patron)

\$100 (Organization) \$365+ (“365 Club”)

I am enclosing an extra \$10 to receive the Legislative Alert during sessions.

Other: \$ _____ (please specify amount) Total enclosed \$ _____

Name: _____

Address: _____

City _____ State _____ ZIP+4: _____

Home Phone: _____

Work Phone: _____ email _____

Ways I will help KCC include:

Telephone Tree Writing Letters Monitoring Interim Committees Lobbying during Session

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..

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