

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

Spring 2007

Political Maneuvering Paces Session

The 2007 election cycle cast its long shadow over the recently ended legislative session. With several legislators running for state offices, the political parties maneuvered for advantage in the upcoming poll. Add in the usual squabbling between the Republican controlled Senate and the Democrat controlled House, and there was little for the General Assembly to agree on. First some good news.

Brownfields Cleanup Tax Incentives Refined

(SB 82 Leeper) This bill amends the law specifying qualifications for a three-year reduced ad valorem tax rate, and for a tax credit, for the voluntary environmental remediation of polluted and contaminated property. Qualification now only requires a notice of "no further action required" from the Department of Environmental Quality, rather than a more restrictive covenant not to sue. The law now applies to current owners, rather than "prospective purchasers" and it disqualifies publicly financed remediation properties.

Farmer's Market Nutrition Program Approved

(SB 25 Harper Angel) Creates the Kentucky Farmers Market Nutrition Program within the Department of Agriculture in collaboration with the Cabinet for Health and Family Services for the purpose of enhancing nutrition. The program services include the provision of fresh, locally grown produce to low-income citizens, including but not limited to seniors and recipients of the Special Supplemental Nutrition Program for Women, Infants, and Children provided by the federal Food and Nutrition Services.

Underground Petroleum Storage Tank Program Extended

(HB 137 Yonts) Extends the currently expired deadline until 2010 for

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Land Conservation Task Force Begins Work

The Land Conservation Task Force, who's creation was championed by KCC in the 2006 Legislative session, met Jan 23 and heard presentations from the major Land Conservation programs funded by the State.

Reporting to the task force were the Heritage Land Fund, the PACE (Purchase of Agricultural Conservation Easements) program, the Fish and Wildlife leasing programs and the Division of Forestry's Forest Stewardship Program. They discussed needs and current funding sources.

The Task Force will next meet April 24th at 1:00pm in the Capital Annex where it will hear presentations from Florida's Division of State Lands, The North Carolina Naturally Program and the Nature Conservancy about the methods they use to fund land conservation.

A final meeting of the task force will be held in June to discuss Kentucky's needs, possible funding mechanisms and legislation to be presented to the 2008 Legislature.

The task force is charged with studying the Commonwealth's strategy for the protection of natural resources, farmlands, habitats and forests. It is reviewing ways to provide long term funding for four existing programs: Land Heritage Conservation Fund, Forest Stewardship Fund, PACE and Fish and Wildlife Land.

The task force includes members from the General Assembly, League of KY Sportsman, KY Resource Council, KFTC, Sierra Club, KY League of Cities, KY Woodland Owners, Farm Bureau, KY Homebuilders Assoc., KY Assoc. of Counties, Nature Preserves Commission, the Dept of Fish and Wildlife, and the State Parks.

Scorecard

KCC Stance	House Action Favorable to KCC	Senate Action Favorable to KCC	Final Law Favorable to KCC
Strong Oppose	0%	0%	0%
Oppose	86%	57%	0%
Support	36%	36%	100%
Strong Support	80%	50%	100%
Overall	53%	42%	71%

The table above attempts to evaluate the session numerically by the bills that we were tracking. This is an above average percentage of favorable law, but the volume was small.

Save the Date for the Annual Meeting

October 13, location TBD

Topics: Land Conservation Task Force Proposed Legislation, Green Building Standards, KY Steam Saver Bill

2004 Session Review, Cont.

registration of old underground storage tanks, allowing the removal of those tanks to be reimbursed by the state petroleum storage tank fund. This program is primarily to encourage the removal of old, rusted and leaking gas station tanks and the remediation of the contaminated property.

Of course, there was also some bad news.

Regulatory Relief for Large Investments Approved

(SB196 Stivers) Greasing the skids for large capital investments at the expense of citizen rights and environmental protection, SB196 has been signed into law. This bill exempts from siting board review industrial energy facilities costing over \$750 million. This exemption includes any facility using coal gasification to produce transportation fuels, syngas, chemicals, or electricity. It also changes the venue for appeals of permitting actions to local circuit court rather than Franklin circuit Court.

Stream Saver Bill Dead in Water

(HB385 Pasley and others) Aimed at stopping some of the destructive practices associate with mountaintop removal mining, this bill never emerged from the House Natural Resources and Environment Committee. It did, however, garner 18 co-sponsors in it's second appearance in the legislature in as many sessions.

Had it become law it would have required that the debris created in removing the mountaintop be returned to the mine area, to the maximum extent possible. The remainder could only be disposed of in permitted areas or previously mined areas, and that none of it could be disposed of in the waters of the Commonwealth.

Mountaintop removal mining destroys headwater streams by filling them with the mining debris. This in turn destroys important drinking water sources and pollutes the water running from these so-called valley fills.

We hope to see this bill return in future sessions.

Billboard Bill Collapses, Once Again

(SB155 Harris) For many years running, the billboard industry has been attempting to obtain the right to remove trees and other vegetation in the public right-of-way along highways that block the visibility of their signs. First they tried to get regulations promulgated in the Transportation Cabinet, where the outcry of public dissent stopped it.

The past several legislative sessions have seen them attempt legislative action to set up a permitting program in the Transportation Cabinet to allow the practice. Had this bill passed it would have created a new bureaucracy to review and issue permits and monitor the work. It would also have weakened existing prohibitions against extending the life of a nonconforming billboard by allowing the billboard to be damaged up to 60% of the value of the structure to be repaired.

This bill flew through the Senate with lightning speed, receiving floor readings before it was even approved by committee. Progress slowed a little in the House, but had received two of three readings when the session ended.

Floyds Fork Task Force A No-Go

(SB146 Tapp HB435 Belcher) This bill would have established a Floyd's Fork Water Resources Council to plan and implement a pilot project to assess current stream loading and present alternatives for protecting water quality and manage growth economically. It turned out to be an industry backed bill that would have excluded many local citizen's groups from participation. An alternate plan negotiated by the stakeholders, including local citizens groups, convinced the sponsor to withdraw this bill.

Speed Limits Increased

Turning a blind eye to safety, energy efficiency, and the cost of signage, the legislature approved raising interstate speeds to 70 mph in non-urban areas where deemed appropriate by the Transportation Cabinet. Some legislators cited higher limits in neighboring states as the rationale.

Exemption to Wild Rivers Act Stalls Out

Late in the session, after deadline for filing new bills, legislators with a mission sometimes highjack other bills to their

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Good Ideas Language

As always, many good bills were either defeated or were never head in committee, but that doesn't mean they don't have merit. Here are some bills we would like to see get another chance.

KY Clean Election Act. This provided comprehensive reform of state campaign finance law, providing for public financing and setting limits on individual and aggregate private contributions for participating candidates. Campaign finance reform is critical to making the legislature more responsive to regular citizens.

HB123 Mandated that the Public Service Commission initiate a 3-year pilot program for installation of "next-generation" electric meters in residences, with interior readouts and remote reporting to utilities of energy use. It also called for compilation and reporting of study results. This was to be an experiment in energy conservation and efficiency.

HCR18 Encouraged the Kentucky Transportation Cabinet and the Kentucky Cabinet for Economic. Development to promote and market the use of Amtrak rail passenger service and the communities which serve as Amtrak passenger stations

HJR14 Directed the Kentucky Recreational Trails Authority to study illegal trespass by ATV users on private and public property.

HCR131 Created an E-scrap Task Force composed of 15 members to study ways to increase recycling of electronic waste.

HJR130 Directed the Environmental and Public Protection Cabinet to promulgate administrative regulations for emergency action plans for high or significant hazard impoundment dams, primarily coal slurry impoundments.

SB191 Directed the Dept. Of Fish & Wildlife to establish regulations for harvesting wild ginseng including a limited harvest season, establishes fines. Sustainable ginseng harvesting could provide a badly needed source of income in Eastern KY.

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purposes. So goes the story of HB 284.

It started out as a bill creating exceptions to the mandated use of seat belts. The Senate Transportation Committee, decided to include an exception to the Kentucky Wild Rivers law. The purpose was to allow construction of new bridges for the proposed London to Somerset portion of I-66 over the Rockcastle River.

This was the second bill that the Senate Committee amended to allow construction of a new bridge on a section of the Rockcastle River designated as a state wild river. This other bill was set aside by the Senate.

HB 284 with this new provision was approved by the Senate, however, and sent back to the House for concurrence. House leadership did not bring it up for a concurrence vote before the session ended.

As Tom FitzGerald of The Kentucky Resources Council pointed out, "the proposed I-66 segment from London to Somerset is not needed, the environmental impact statement process for I-66 has not yet been completed and the question of whether it is ecologically and economically appropriate to construct new bridge(s) near the KY-80 bridge through a protected river corridor, needs further discussion"

Tax Credits for Conservation Easements Failed

(HB 354 Webb) KCC has taken up the cause of land conservation as a high priority. One of the tools to accomplish this end is the conservation easement to encourage private land owners to set land aside, free from development.

Had this bill become law it would have established a tax credit for easements granted to allow wildlife-associated public access to private lands.

This measure was approved by the House, but was never heard in the Senate Appropriations and Revenue Committee.

Thanks!

The phone calls, faxes, citizen lobbying, and donations are extremely valuable in backing up the hard work of the lobbyists. Their efforts are more effective if legislators get a sense that our lobbyists represent a real contingency of people. Keep up the good work!

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Venue Change Given a Pass

(SB 75 Stivers) Anattempt was made to move the venue for appeals of administrative agency actions and enforcement by administrative agencies of orders and determinations from Franklin Circuit Court to Circuit Courts around the state. A loss of continuity and consistency among judicial decisions interpreting and applying agency statutes would have resulted. Additionally it would have increased costs to agencies traveling to 120 venues in order to defend appeals and to enforce agency orders. This bill passed the Senate but was not heard in the House Judiciary Committee.

The Earth Needs a Friend in Frankfort

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