

HCS HB 2306 -- ENVIRONMENTAL RESTORATION ACT

SPONSOR: Henderson

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Conservation and Natural Resources by a vote of 10 to 1. Voted "Do Pass" by the Rules- Administrative Oversight Committee by a vote of 14 to 0.

This bill creates the "Environmental Restoration Corporation Act," which allows for the formation of a nonprofit corporation to hold, manage, or own environmentally impaired property that is subject to an ongoing cleanup or remedial action. In addition to the powers of all nonprofit corporations, any environmental restoration corporation has certain additional powers as specified in the bill, including the ability to acquire, accept, convey, dispose, encumber, manage and own real property that is subject to certain clean up or remedial action and to enter into contracts with private or public entities to conduct, manage, oversee, and regulate activities that may be necessary for the implementation of clean up and remedial actions on such property.

Any environmental restoration corporation will be managed by a board of no less than five directors, who will initially be appointed by the incorporators. The bill specifies the make up of the board and its duties and requirements. All actions of the corporations must be taken at meetings open to the public, except for confidential matter relating to personnel, contracts, or litigation.

If an environmental restoration corporation receives public funds for any activities at a specific property, the corporation must allow for periodic audits by the State Auditor and upon request, provide an annual report to the General Assembly concerning the receipt and use of the funds.

Any conveyance of property to a third party may include an environmental covenant or conservation easement. Prior to acquiring interest in real property subject to restoration activities, a corporation must undertake all due diligence activities under U.S. Environmental Protection Agency regulations to qualify as a bona fide prospective purchaser, which would make the corporation immune from liability under certain Missouri laws. However, the corporation must comply with all regulatory requirements. A corporation owes no duty of care and has no liability to any trespasser or other person who enters onto the corporation's property.

PROPONENTS: Supporters say that this bill would create a third-

party land trust to utilize the funds set aside through legal settlements that are designated for projects in the "Lead Belt" of Missouri. In order to comply with federal requirements, the remediated land must have conservation easements and environmental covenants attached and this would establish an organization that would be able to facilitate that process.

Testifying for the bill were Representative Henderson and Mike Alesandrini, Leverage Management Solutions.

OPPONENTS: There was no opposition voiced to the committee.