

TENNESSEE GOVERNMENT

Update

NEWS FOR THE CLIENTS AND FRIENDS OF BASS, BERRY & SIMS PLC

Governor Bredesen and the General Assembly continued the preliminary work of law-making; the budget will be presented on Tuesday; the administration bills are being introduced on Thursday; and bills continue to be passed on first and second readings and assigned to committees. The real work of considering bills will begin in earnest in the next two weeks, with committee activity likely reaching a peak in April. The General Assembly has adjourned on Memorial Day weekend each of the last four years.

Governor Articulates Proposal on Smoking

In a speech to the Tennessee Press Association, Governor Bredesen proposed a ban on smoking in Tennessee workplaces. The call comes after his State of the State speech that asked for a tripling of the cigarette tax to 60 cents per pack. He said the ban is an issue of worker safety and that all Tennessee workers have “the right to earn a paycheck, to eat a meal, to provide for our families, without risking our health in the process. All workers have the right to breathe clean air.”

Currently, 21 states have workplace smoking bans, but some businesses, particularly bars and restaurants, fear that a ban could drive business away. However, the governor acknowledged some compromise is acceptable, such as bars or places of business that are restricted to people 21 years of age or older. The Tennessee Restaurant Association preempted the governor’s proposal by advocating a statewide ban on smoking in the workplace; they are not opposed to a ban as long as it applies to every workplace.

Lieutenant Governor Ron Ramsey (R-Blountville) and House Speaker Jimmy Naifeh (D-Covington) have both indicated a preference for letting the market decide where smoking should be allowed or prohibited.

More on Tobacco Tax/Education Initiatives from the Governor

Speaking on Tuesday to the NAACP, Governor Bredesen expressed his opposition to any cigarette/food “tax swap,” claiming that it would make the tax regime more regressive. The governor’s proposal to triple the cigarette tax and not increase the food tax is more regressive, but he claimed that hiking the cigarette tax would be better for lower-income

individuals. The projected revenue would fund many of the governor's education proposals.

Lieutenant Governor Ron Ramsey does not support a tax swap either, but he noted the surplus or "over-collection" of taxes in 2006 and favors finding some way (perhaps a food tax reduction) of returning that money to taxpayers.

Governor Bredesen's Budget

Commissioner Goetz will release and discuss the administration's fiscal year 2008 budget proposal to the Senate and House Finance Committees on Tuesday, February 20. The 2007-08 budget proposal will further explain the governor's State of the State proposals, including funding for education and alternative fuels.

Economic Outlook for the State

The University of Tennessee's Center for Business and Economic Research, one of the fiscal advisors to the state's Funding Board, projects the state's economy to grow by 2.7 percent next year with job expansion at 1.2 percent. Personal income, up by 6 percent in 2006, is expected to grow this year by about 5.5 percent. This projection will factor into the governor's budget proposal.

The Legislature

Several issues began to develop this week in committee, although no significant bills were discussed.

Tennessee Lottery

In the Senate Finance Committee, Robert Curry of the Fiscal Review Committee presented a report on revenues from the Tennessee Lottery. Net proceeds from fiscal year 2005-06 approached \$270 million, an 18 percent increase from the previous fiscal year.

Tobacco

The Senate Finance Committee also heard from Russell Perkins of the Department of Tobacco Enforcement, which is responsible for implementing the Master Settlement Agreement with tobacco companies. He reported that the state of Tennessee received \$141 million in 2006, while the tobacco companies withheld \$19 million in disputed funds from Tennessee. In 2007, he anticipates payments of \$135 million, with \$27 million potentially being withheld.

Alternative Fuels

The Senate Commerce Committee met at length on the subject of alternative fuels. Paul Sloan, deputy commissioner of the Tennessee Department of Environment and Conservation, said his working group has been meeting with constituencies around the state, including farmers, distributors, retail outlets and consumers, in order to determine what is needed to increase bio-fuel production and usage. Sloan said, "In Tennessee, we are well-positioned to have clean, renewable bio-fuels as an important part of our future." Dr. Kelly Tiller, an agricultural economist at the University of Tennessee, stated that

cellulosic ethanol is the key to the future of sustainable energy, and as Tennessee is ideally suited as a potential provider, recommended that Tennessee fully fund a “bio-fuels initiative” to further this cause.

CoverTennessee

The Senate General Welfare Committee received an update on the CoverTennessee program from Department of Finance and Administration Commissioner David Goetz. He reported that the program is very close to opening all products for enrollment. CoverKids has received federal approval and will receive funds through the federal program SCHIP (State Children’s Health Insurance Program). When asked about hospital sign-ups, Goetz admitted being disappointed in the response by some providers, although he says he is continuing to work with them. He believes that there will be an “adequate network” to begin offering services.

The greatest tension he has experienced so far has been businesses’ complaints about the requirement of six months without coverage before being eligible to apply, the so-called “go-bare” provision. In addition, he has had to allay fears of insurers and providers that the new system will destroy the commercial insurance market.

Sprinkler System Installations and Assisted Living and Nursing Homes

The House Subcommittee on Healthcare Facilities listened to Judy Eades, assistant commissioner of the Department of Health, as she updated the Subcommittee on sprinkler system installations in facilities for the elderly. The nursing home and assisted care living industries have been diligent in meeting the new requirements, and nearly all are now up to code. Residential homes for the aged have had a more difficult time, with some having reduced beds in order to avoid the sprinkler system requirement. Eades stated that she sees no need for any further healthcare facility safety legislation at this time.

Communications

Both *The Tennessean* and *The City Paper* editorialized early in the week in favor of AT&T’s argument that a statewide franchise would be good for consumers. A statewide franchise would enable AT&T to begin to offer television services in Tennessee. The cable companies asserted that such a statewide franchise would be unfair because cable companies must receive franchises from local governments and pay \$40 million in franchise fees to local communities each year. The AT&T proposal would require the payment of franchise fees by it to local communities. However, the rights-of-way issue is not relevant to AT&T; it already has the wires to transmit the appropriate signals. In other words, cable TV, due to technological developments, is no longer a natural monopoly. The consumer, argued the papers, would benefit from competition.

By Wednesday, the legislation was filed; Senators Doug Jackson (D- Dickson) and Bill Ketron (R-Murfreesboro) are the sponsors in the Senate while Representative Steve McDaniel (R- Parkers Crossroads) and Representative Charles Curtiss (D- Sparta) are their House counterparts. Jackson spoke of “a fundamental change of how business will be conducted in the future...premised around fair competition instead of a monopoly.” A

requirement that would force AT&T to contract with local municipalities individually would pose a “substantial impediment to companies wanting to compete.”

The Tennessee Municipal League also opposes any change.

Tennessee Education Lottery Scholarships

In addition to reporting an 18 percent increase in net proceeds in fiscal year 2006, the report from the Tennessee Higher Education Commission (THEC) showed that 64 percent of scholarship recipients do not retain the scholarship after two years. There is a negative correlation between income and the probability that a student will retain his or her scholarship; as family income falls, a student is less likely to retain the scholarship. Also, blacks are more likely than whites to lose the scholarship. Females currently represent 61 percent of scholarship recipients and are more likely than their male counterparts to retain the scholarship.

David Wright, associate director of policy and research at THEC, suggested that high school GPA and ACT scores were better predictors than income and race.

A four-member commission has been appointed to study the issue. The commission members are A.C. Wharton, the mayor of Shelby County; Jack Murrah, president of the Lyndhurst Foundation; Comptroller John Morgan; and Sondra Wilson, a student at Middle Tennessee State University.

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