

TENNESSEE GOVERNMENT UPDATE

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

April 22, 2011

As Tennessee legislative committees begin to close, we know more details on the schedule for consideration for the state's budget. Both the Senate Environment Committee and Transportation Committee finished their business this week and are closed, subject to the call of the chair. The House Commerce subcommittee and other House subcommittees are closed, subject to the call of the respective chairs.

The financial spreadsheets of the governor's proposed amendment to the budget will be discussed in the Senate Finance Committee on May 3. The language supporting the proposed amendment will be released the following week. Thus, by close of business on Thursday, May 12, all the pieces should be in place for the finance committees to begin serious consideration of the state's budget for the fiscal year beginning July 1, 2011. By that time, too, almost all other committees will be closed or near closing, and the legislature will be spending significant time in floor sessions debating legislation that has come to the floor of each house from the standing committees. The target date for adjournment remains May 25.

The House Judiciary Committee on Tuesday adopted the governor's amendment to the tort reform bill and recommended the bill for passage. The text of the bill as amended is [here](#). On Tuesday afternoon, the Senate Judiciary Committee took up the legislation. [Mike Morrow's Tennessee Report has a full description](#), including a narrative of the "cross-examination" of former U.S. Senator Fred Thompson by Senator Brian Kelsey (R-Germantown). The questioning was based on a 2007 article written by Thompson extolling the benefits of medical malpractice reform in Texas. Thompson is now a lobbyist for the trial lawyers' group opposing the Tennessee tort reform effort. The questioning concluded with what Thompson acknowledged was a "gotcha" moment. The archived video of the Senate Judiciary Committee meeting of Tuesday, April 19 can be found on the [Tennessee legislature's website](#) by clicking on the Judiciary link in the left-hand column. To hear the referenced conversation, start at timestamp 3:22:00 in the video.

The clash between business interests and social and cultural interests in the legislature is evident in the discussion of a bill that would require every employer to enroll in the federal government's E-Verify program prior to hiring an employee on or after January 1, 2012. Employer is defined as "any person who transacts business in this state" and pays an employee in Tennessee. The bill also creates an "office of employment verification assistance" and requires the Department of Labor and Workforce Development to "conduct an inquiry [into E-Verify compliance] any time an employer is the subject of an inquiry with regard to labor standards or workers' compensation." After the opportunity for a contested case hearing under the state Administrative Procedures Act,

an employer may be fined \$1,000 for a first violation, \$2,500 for a second violation, then \$5,000, in addition to the suspension of the employer's business license, for a third violation. Failure to respond to the department within 30 days constitutes a violation in and of itself.

In an [op-ed piece in *The Tennessean*](#) on Wednesday, the bill's House sponsor, Representative Joe Carr (R-Lascassas), accused the business community of basing its opposition to the bill on a "lie." The bill was recommended by the Senate Commerce Committee on April 5 and referred to the Senate Finance Committee. In the House, the bill has been recommended by the State and Local Government Committee and is on the calendar of the Government Operations Committee next week.

In the executive branch of government, the governor's choice of commissioner of education was the subject of a [surprisingly negative article in *The Tennessean*](#) this morning. The article infers that Commissioner Huffman does not have the experience for the position. This is the first instance of published public criticism in the mainstream media of any of the governor's cabinet selections. The article was written by Julie Hubbard.

The governor announced a [reorganization plan](#) for the Department of Economic and Community Development this week.

The plan, Jobs4TN, de-emphasizes in-bound, large, new projects in favor of a concentration on in-state businesses and rural development. A significant number of the 50 or 60 individuals whose employment will be terminated are in the office of planning, the purpose of which is to assist small towns and counties develop plans for growth. Again, [Mike Morrow with *Tennessee Report*](#) has a full report of the announcement.



J. Richard Lodge
(615) 742-6254
dlodge@bassberry.com



H. Lee Barfield II
(615) 742-6202
lbarfield@bassberry.com



Erica Bell Vick
(615) 742-7901
evick@bassberry.com

150 Third Avenue South, Suite 2800 • Nashville, TN 37201 • (615) 742-6200
The Tower at Peabody Place • 100 Peabody Place, Suite 900 • Memphis, TN 38103 • (901) 543-5900
1700 Riverview Tower • 900 South Gay Street • Knoxville, TN 37902 • (865) 521-6200