

TENNESSEE GOVERNMENT *Update*

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

Tennessee Government Update, Tuesday, May 30, 2006

The second session of the 104th Tennessee General Assembly adjourned *sine die* Saturday, May 27, late afternoon. The regular session came after a difficult special session on ethics that convened in January and lasted four weeks. In the last week of the regular session, the legislature passed Governor Bredesen's Cover Tennessee healthcare program that supplements TennCare, the state's Medicaid program, and the Fiscal Year 2007 state budget. The budget is balanced, as required by state constitution, and anticipates spending \$12.4 billion in state generated revenue and a total, with federal money, of \$26.1 billion.

Workplace Legislation

High-profile bills to create a state minimum wage and to strengthen the state pay equity law did not pass. The minimum wage bill was re-referred to committee by the Senate minutes after passing the House. The pay equity bill failed in the Senate Commerce Committee. A bill giving greater rights to firefighters' unions also passed the House only to be re-referred to committee in the Senate. In addition, bills that would require business to pay a "fair share" for health insurance did not survive committee scrutiny.

State Tax Matters

REITs (real estate investment trusts) were the big losers this year. The Department of Revenue proposed a bill to remove the exemption enjoyed since 2000 by REITs from the state franchise and excise taxes. The bill passed easily in both houses, as do most tax bills that can be characterized by the administration as "closing loopholes."

The legislature also determined when software would be subject to the personal property tax. This matter was addressed after the Board of Equalization attempted, in an administrative proceeding, to levy the tax on all software. That effort was abandoned and the matter addressed by the General Assembly.

Business-Specific Issues

After six years of discussion, often heated, the legislature passed a predatory lending bill that was generally acceptable to financial institutions and prohibits certain lending practices relative to "high cost loans."

The General Assembly did not pass bills that would have:

- reformed medical liability lawsuits;
- allowed municipal governments to provide broadband outside of city limits; and
- permitted a Jack Daniel Distillery museum in downtown Nashville to sell commemorative bottles of the world famous Tennessee product.

On the last day of the session, a bill passed allowing the imposition by local governments of an "adequate facilities fee" under described circumstances.

Ethics

The definition of "lobbyist" in the ethics legislation passed in the Extraordinary Session in February was amended so that a person selling goods or services to the state is a lobbyist and subject to the prohibitions that attach to a lobbyist only with regard to state officials who actually make the purchasing decisions.

Political Outlook

Governor Bredesen is on the ballot for re-election in November. His opposition is likely first-term Senator Jim Bryson. Bredesen is heavily favored to keep his job.

All 99 House seats are on the ballot. Democrats currently hold a 53-46 edge over Republicans in that body. While there may be some seat swapping, we believe, and most observers agree, that the Democrats will control the House in the 105th General Assembly when it convenes January 9, 2007.

Half of the 33 Senate seats are on the ballot. Republicans hold an 18-14 majority with one seat vacant. Despite the majority, the Senate speaker, John Wilder, is a Democrat and has been speaker and (by virtue of being speaker of the Senate) lieutenant governor since 1971. We believe, and most observers agree, that the Republicans will retain the Senate majority. If so, the best politics of the year will come after the general election as the Senate prepares to elect its speaker for the 105th General Assembly. Ron Ramsey, the current majority leader, will run for the position. Wilder will almost certainly try to put together a coalition to retain his seat at the podium. In 2005, he kept the position with the votes of two Republicans. Randy McNally, the Republican Caucus chair, has indicated that he, too, will seek the votes to be speaker of the Senate. The Senate has a history of colorful and convoluted races for speaker. This one could be among the best.

J. Richard Lodge, Jr.

PHONE: (615) 742-6254

FAX: (615) 742-2754

E-MAIL: dlodge@bassberry.com



Leslie K. Hafner

PHONE: (615) 259-6342

FAX: (615) 742-2801

E-MAIL: lhafner@bassberry.com