

TENNESSEE GOVERNMENT

Update

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

The last week of March 2006 in the Tennessee General Assembly is shaping up to be important to business interests on a number of fronts.

The Joint Predatory Lending Study Committee will meet at 11:00 a.m. on Thursday, March 30. The committee is expected to discuss two predatory lending bills sponsored by Senator Roy Herron; both originated in Memphis.

The governor will address the General Assembly at 6:00 p.m. CST Monday, March 27, on his new health insurance initiative that is expected to address the issue of under-insured working poor. The governor has avoided advocating a "pay or play" bill imposing new mandates on employers, but he may propose some sort of "public-private partnership" that will bear immediate study. The plan likely will be smaller in scope than originally discussed. The governor's address will be available on the web at www.legislature.state.tn.us, and most Tennessee public television stations will carry the speech live.

A measure to "put teeth" in a law requiring gender equality in workplace pay will be considered by the Employee Affairs Subcommittee of the House Consumer & Employee Affairs Committee on Wednesday. HB 2621 McMillan/SB 3122 Harper would allow employees discriminated against in pay equity to bring suit against their employer. The bill became a partisan focus this week as it finally passed the House Government Operations Committee on a party-line vote.

In the Government Operations Committee, House Democratic Leader Kim McMillan (D-Clarksville), the sponsor, and Rep. Susan Lynn (R-Mt. Juliet) debated the matter in an unusually sharp exchange that may preview the debate on the House floor. Lynn said, "This bill really does seem like a trial lawyer's bill, and any trial lawyer could bring a suit across companies ... This bill was originally passed in 2004, and this new bill ...takes out something from the law that is very important." Lynn argued that the new law would allow employees to compare wage scales even between different companies.

McMillan bristled in defense: "I can say she is definitely incorrect in her assumptions about the language in this particular bill. ... The courts have interpreted that language of

'within the same establishment' to mean that an employer who may work for a company that had several different locations could not use those different locations in a comparison. It still requires that the discrimination be compared within the same employer. It does not allow cross-employer comparisons." McMillan continued, "I know that Mrs. Lynn continues to have this argument, I think she is incorrect." Lynn said she was trying to avoid "frivolous lawsuits."

A measure by Senator Rosalind Kurita (D-Clarksville) to raise the tax on cigarettes to finance the state's healthcare safety net and to lower the sales tax on food gained some momentum this week, although even Senate Democrats are not united on the issue. Tobacco interests oppose the bill, and many small counties and municipalities do not want to give up the stable, significant sales tax income that comes from the tax on food. Two bills, Kurita's and one by Senator Doug Jackson (D-Dickson), will be considered by the Senate Finance Committee next week.

The minimum wage issue was the subject of the entire two-hour meeting of the Senate Commerce, Labor & Agriculture Committee Tuesday, and the discussion was not completed. The measure will be considered again April 4.

SB 3119/HB 2624 by Senator Doug Jackson (D-Dickson) would create a Tennessee minimum wage at \$6.15, a dollar more than the federally established \$5.15 an hour. Jackson referred to the increase as "not a raise, but a correction. We are trying to get it back to 1996-1997 dollars in purchasing power." Dr. William Fox, director for the UT Center for Business and Economic Research said he was not at the Committee to speak for either side, but just to show what research has shown. The economist said that most minimum wage jobs in Tennessee were food service, movie ushers, and motel jobs. Fox said that one would theoretically expect a higher minimum wage rate to lower employment, but the facts showed only a minimum job loss. The actual loss, according to Fox, was the number of hours the employees worked when they were to receive higher wages. Fox said one research conclusion from Syracuse shows that only about 20% of the increased wage benefits go to lower income households. Fox said most went to high school students or college students. Fox said that the increased cost to the employer would be seen in increased cost of product, less profit or higher prices. Various business interests argue that increasing the minimum wage results in job loss.

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