

# TENNESSEE GOVERNMENT

## Update

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

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*May 2, 2008*

The current schedule calls for the second session of the 105th Tennessee General Assembly to adjourn Thursday, May 15. The schedule also calls for the Governor to address a joint convention of the House and the Senate on Monday, May 12, to explain the state's current fiscal condition and his recommendation for the budget for the fiscal year beginning July 1, 2008 (FY 2009).

On Thursday, May 1, the State Funding Board estimated that revenues for FY 2009 will be from \$468 million to \$585 million less than the Governor proposed in the budget transmitted to the General Assembly earlier this year.

### **The State's Fiscal Condition**

The Funding Board received reports from three sources – University of Tennessee economist and advisor to the State Funding Board Bill Fox, Fiscal Review Committee staff and the Department of Revenue. The estimates for growth of sales tax revenue for FY 2009 range between 0.2 percent and 1.8 percent, far below projections made last year when the current budget was passed. Fox reported that sales tax revenue for April 2008 represented the single greatest monthly decline since 1961. Comptroller John Morgan suggested that it was possible that the state could actually realize less tax revenue this year than last year. If so, that would be a first in recent Tennessee history. Commissioner of Finance and Administration Dave Goetz expressed concerns that the sluggish tax receipts are worse than anticipated and will require adjustments this year and next. “It will require a deeper level of reductions than what we'd anticipated... we're going to have a recommendation for the legislature on how to go about doing that.” Spending in FY 2008 will have to be reduced by about \$350 million.

With regard to the proposed FY 2009 budget, Governor Bredesen indicated that he would, among other measures, recommend laying off state employees, cut back on his proposal to spend \$25 million more this year for 250 additional pre-K classrooms and reduce state aid for higher education. The Governor proposed a \$28 billion (combined state and federal revenue) budget in January, and the legislature must pass a balanced budget before it adjourns.

Indications are that layoffs of state employees will be substantial and that no pay raise increase (a 2 percent hike was in the original budget) can be expected. There are currently about 45,000 state employees. The Tennessee State Employees Association called for using some of the \$750 million from the “rainy day fund,” but Bredesen and Goetz made clear that they have no intention of doing so, at least in part because such a decision would fund continuing obligations with “one-time” money.

### **Department of Revenue's Technical Corrections**

Each year, the Department of Revenue offers “technical corrections” to the tax code in an effort to close what the department considers loopholes. This year, the move could increase tax revenue by as much as \$27 million. The most controversial item is a recommendation to require family-owned, non-corporate entities to pay corporate franchise and excise tax on passive income. Motels and hotels can

expect to begin paying the use tax on the food and beverages that are provided “free” to those who spend the night.

### **Tennessee Supreme Court Chief Justice to Retire September 1**

Effective September 1, Tennessee Supreme Court Chief Justice William M. Barker will retire. Barker was appointed to the Supreme Court by Republican Governor Don Sundquist in 1998 and was elevated to Chief Justice by his colleagues in 2005. He has served 25 years in the judiciary, the last 10 as a member of the Supreme Court. Justice Janice M. Holder of Memphis will become Chief Justice when Barker retires on September 1. She was appointed to the Supreme Court by Governor Sundquist in 1996. With the appointment of Barker’s successor, Governor Phil Bredesen will have appointed four of the five Supreme Court Judges.

### **Statewide Video Franchise Bill**

The “Competitive Cable and Video Services Act” of 2008 was approved 93-2 in the House and 29-0 in the Senate. The bill enables AT&T and others to apply for a statewide franchise to offer broadband video services instead of having to apply for franchises with local authorities. Twenty states currently allow for statewide franchising, and similar proposals are pending in 10 other states.

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#### **J. Richard Lodge, Jr.**

PHONE: (615) 742-6254

FAX: (615) 742-2754

E-MAIL: [dlodge@bassberry.com](mailto:dlodge@bassberry.com)



#### **Leslie K. Hafner**

PHONE: (615) 259-6342

FAX: (615) 742-2801

E-MAIL: [lhafner@bassberry.com](mailto:lhafner@bassberry.com)