

TENNESSEE GOVERNMENT *Update*

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

The second session of the 104th General Assembly continues to stoke the boiler to reach running speed. Yesterday was the first bill-filing deadline. All bills must be filed by next Thursday. As bills were filed, major themes for the next three months began to emerge.

On Tuesday, the Tennessee Medical Association and allied businesses and health care providers announced a full-scale drive to enact **medical liability reform**. The doctors and their coalition partners seek:

- Caps on non-economic damages of \$250,000 for individuals, \$250,000 for all facilities, not to exceed \$500,000 per case. But no limit on economic awards.
- A sliding scale for attorney fees, to limit the amount trial attorneys would collect from "jackpot" judgments.
- Medical review of malpractice claims before they can proceed to court.
- Payment of judgments over time rather than as a lump sum.

American Medical Association President J. Edward Hill, M.D., told a gathering in Nashville that Tennessee had been added to the map of "crisis" states in the price of medical malpractice insurance.

The House Democratic Caucus agenda includes establishing a **Tennessee minimum wage**, and three bills have been introduced to do that. The initial Tennessee minimum wage would be \$6.15 or \$7.15 an hour, depending on the proposal adopted.

A proposal will be made to construct a new downtown **Nashville convention center** costing \$455 million. The facility would be funded with a variety of new or reallocated taxes—hotel/motel, rental car, tax increment, etc., many of which require approval by the General Assembly.

The Senate Commerce heard from Gregory Gilbert, a government relations representative from Concentra Health Services of Addison, Texas, on the **Workers' Compensation medical fee schedule** in Tennessee. Gilbert said the Workers' Comp medical payment in Tennessee is lower than 12 other states that have a cap. In Tennessee, an individual receiving Workers' Compensation is allowed 12 visits to a physical therapist before reauthorization is required from a physician. Gilbert indicated that was lower than the 13.4 average, but agreed to visit the issue with the Senate committee if changes are sought. Gilbert suggested his concern was the lack of communication with those seeking to change the current status. Sen. Mark Norris (R-Collierville), who has been instrumental in recent changes to the workers compensation legislation, commented that he felt the issue of scope of injury should be revisited in an attempt to make medical care affordable for all Tennesseans.

The **state's tax collections** at mid-fiscal year were 7.07% above last year. Finance Commissioner Dave Goetz told the finance committees of both houses that state revenues were only \$240,000 more than the state had budgeted. Sales tax revenues at the six-month mark ran comfortably ahead of the conservative estimate on which the 2005-06 state budget was based, but franchise and excise tax collections showed a major correction, apparently as companies decided they had already paid in enough to cover taxes on the profits foreseen in their fiscal year.

Governor Phil Bredesen last week signed the **ethics reform law** creating a new ethics commission, saying it accomplished "80% of what a lot of people wanted in the bill." While not unwilling to look at further reforms, the governor suggested Wednesday the new law be allowed to "sit for a while" in order to see what changes still need to be made. "This isn't the end of the line by any means. . . . The solution to this issue is maintaining vigilance," the governor said.

Bredesen also told six state agencies to work out a policy on **state use of alternative fuels**. The working group, to be chaired by designees of the state Department of Agriculture and the Department of Environment, is to

- Establish of interim state standards for biodiesel until national standards are set.
- Make alternative fuels production capacity and infrastructure a priority of the Department of Economic & Community Development.
- Lead state agencies to support development of a biofuels refueling infrastructure.

The Interagency Alternative Fuels Working Group, established by gubernatorial executive order, recognizes recent efforts with the farm, academic and business community to get the state involved in biotechnology addressing fuels. "Increasing our use of cleaner, renewable energy resources will promote cleaner air and better health for our citizens and create additional economic opportunities for Tennessee farmers," Bredesen said.

U.S. Rep. Bill Jenkins (R-1st Cong. Dist.—Upper East Tennessee) said last week that he will not run for re-election to the seat he has held since 1997. State Senate Republican Leader Ron Ramsey said that he will not run for the seat. With an increasing Republican majority in the Senate, Ramsey wants to be Speaker of the Senate and Lieutenant Governor.

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