

TENNESSEE GOVERNMENT

Update

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

Tennessee Government Update, Friday, May 19, 2006

Though not without some partisan sniping, the Cover Tennessee plan passed by wide margins in both houses of the Tennessee General Assembly this week. The Senate still must agree on some changes added in the House; none appear to be contentious enough to stop the new health insurance plan from becoming law. January 1, 2007, is the targeted date for the plan to be operational. The bill was passed first in the Senate on a four-part division of the question. The most controversial division was the “insurance for the working poor” provision. Even that passed 26-4. Other provisions – the State Children's Health Insurance Program (SCHIP), the Tennessee Comprehensive Health Insurance Pool (TCHIP) and a new “Project Diabetes” passed without dissent. The bill then passed the Senate 31-1. It passed the House late in the evening the same day 78-19.

The most contentious issue in the debate was an effort in the Senate by Senator Jim Bryson (R-Franklin), the consensus Republican candidate for Phil Bredesen's job, to append a tort reform amendment to the bill. It failed with only 13 positive votes after five Republican senators either voted against the amendment or abstained, and the minority Democrats voted unanimously against the amendment.

Twenty million dollars of the governor's proposed budget rests on an administration “technical corrections” bill to require real estate investment trusts (REITs) to pay franchise and excise taxes. According to Deputy Commissioner of Revenue Reagan Farr, the bill allows dividends and interest from REITs received by Tennessee residents to be exempt from the Hall income tax. The bill also changes the way taxes are calculated in the time-share industry and decouples the state gas tax from the federal gas tax. Currently, if the federal government lowers the tax the state automatically raises theirs to maintain the rate. The additional revenue is to fund the state's economic development effort.

One sleeper in the budget debate is whether Tennesseans for Fair Taxation (TFT) can summon enough votes for raising the cigarette tax more than 300% (to 63 cents a pack) in order to drop the state sales tax on groceries from 6% to 3%. The local government share

of sales tax on food would be unaffected. TFT has pushed its bill further along than ever before, with anti-smoking votes joining forces with tax-reform votes to support the bill. At 20 cents a pack, Tennessee's cigarette tax is the 47th highest (fourth lowest) among the states. The proposal may be taken up by Finance Committees as early as Monday.

With Cover Tennessee at the finish line, the administration is ready to present its amendment to the budget to the legislature. The funding priorities of the government and members do not always line up—governor proposes, legislature disposes. With some extra cash lying about, both houses are pondering wish lists of their own.

The Senate discussions have revolved around either funding higher education to a greater degree or returning money “borrowed” from other funds, i.e. highway fund. Increasing the rainy day fund has also gotten some traction among the Senate Finance Committee members.

The House took most of yesterday to hear from its membership in individual priorities—commonly referred to as pork projects. There were plenty of requests to build ball fields and make grants to various senior citizen centers, but leadership stated early and often that “amendments to the budget having statewide application would receive top priority.” Projects falling into that category were: \$440 million for a Tennessee Film Incentive fund; \$10 million for property tax relief; and sums sufficient to broaden the Basic Education Funding Formula and cover the state's increased cost for building materials.

Both houses have scheduled votes on the bill to create a Tennessee minimum wage at \$6.15 for Tuesday, May 22.

U.S. District Court Judge Bernice Donald in Memphis ruled this week that the Shelby County Commission could not act May 22, to fill the state Senate seat vacated when the Senate set aside the September 15 special election of Ophelia Ford. The upshot: the Senate will finish out the session with only 32 senators.

The 104th General Assembly will conclude its business *sine die* next week. Leadership in both houses has indicated that Thursday, May 24, is its targeted adjournment date. Barring a breakdown with budget language, it is likely that the adjournment goal will be met. And the fact that the House only has three (paid) floor session days remaining provides extra incentive. Both Houses return to work Tuesday of next week, with Finance Committees meeting Sunday and Monday.

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