

TENNESSEE GOVERNMENT

Update

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

April 25, 2008

The second session of the 105th Tennessee General Assembly is poised for its stretch run. The House on Thursday suspended rules relative to the time required between actions on bills. This so-called “flow motion” will allow bills to be heard in subcommittee and then in full committee the same day or on subsequent days, rather than laying over a week. For obvious reasons, this facilitates quicker legislative action. The Senate will meet next week on Tuesday and Thursday and will have no activity at all on Monday. In part this schedule recognizes that the House has a greater backlog of bills pending than the Senate.

At 8:00 a.m. next Thursday, May 1, the State Funding Board will announce its revenue projections for the fiscal year beginning July 1, 2008. Following the Funding Board decisions, the Governor will prepare an amendment to the budget he proposed in January. The amendment is expected to be delivered to the General Assembly early the week of May 5. The projected deficit for the current fiscal year continues to rise and now is estimated by Governor Bredesen to be in the \$500 million range. This represents an approximately \$1 billion swing from this time last year when the budget surplus was estimated to be in the range of \$500 million.

It is possible that the General Assembly will adjourn sine die by the weekend of May 16, and, barring an unanticipated major controversy, will almost surely adjourn by Memorial Day.

William Snodgrass

Former State Comptroller William R. Snodgrass died April 20, at age 85. He was elected by the General Assembly to 22 consecutive two-year terms and served with seven governors. His successor, John Morgan, who was elected upon Snodgrass’s retirement in 1999, said that it would be “impossible to overstate the contributions he made to government accountability and finance.”

Popular Election of the Lieutenant Governor

Currently the Speaker of the Senate, elected by members of that chamber, also serves as Lieutenant Governor and is first in line of succession if the Governor cannot serve. Legislation to allow for a popularly elected Lieutenant Governor, who would run on the same ticket as a gubernatorial candidate, has been presented in both chambers and seems to have won broad support. The success of the legislation, however, may now be threatened in the Senate because a House committee stripped a provision that would have also provided for the popular election of the Secretary of State, a position now filled by the General Assembly in joint convention.

Medical Malpractice

A bill that endeavors to reduce frivolous medical malpractice lawsuits is headed to the Governor's desk after clearing the Senate Thursday morning (it passed in the House a few weeks ago). The bill requires that a plaintiff's attorney, within 90 days of filing, get a "certificate of good faith" from a medical expert. About 80 percent of medical malpractice claims each year result in no payment to the plaintiff. The bill does not impose caps on non-economic damages, a concept long espoused by the Tennessee Medical Association.

Picking Judges

The Republican Senate Speaker Ron Ramsey released his plan to change the process by which judges are selected. He wants more flexibility with respect to whom he can appoint to the Judicial Selection Commission, a 17-member panel that makes recommendations for judges to the Governor. Currently, each Speaker must select appointees from names provided by statutorily designated interest groups. Ramsey wants to remove those interest groups from the process. House Speaker Jimmy Naifeh has indicated that he is comfortable with the current arrangement. Meanwhile, Governor Bredesen says that he will veto any change that does not include a requirement that all the proceedings of the Judicial Selection Commission be open to the public. Democratic Representative Rob Briley objects to having to discuss judicial candidates in a process that is fully open. Such a change, he asserts, would deter some candidates from applying. If a resolution is not reached this year, the Commission will terminate June 30, 2008, and have a "wind-down" year before ceasing to exist June 30, 2009. This schedule means that there could be a resolution in the new General Assembly in 2009.

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