

TENNESSEE GOVERNMENT

Update

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

The Tennessee General Assembly is running at full throttle. Committee calendars are full. The halls of the Legislative Plaza are packed with legislators, lobbyists, government officials and organized groups. Tuesday past was "University of Tennessee Day on the Hill." Orange replaced last weekend's green as the clothing color of choice. Passersby were offered small bags of orange and white M&Ms. Just outside the main door to the Plaza, UT's Agriculture School showed off a black Angus bull, a nanny goat and two kids, two black sex-link egg-laying hens, and a piglet named Wilbur. Switchgrass grew for a day in the Plaza.

No Caps

A \$250,000 cap on non-economic damages, the cornerstone of the Tennessee Medical Association's (TMA) medical malpractice reform, will not be a part of medical malpractice legislation enacted this year if, indeed, any such legislation at all is adopted. The TMA had hoped that the Republican-controlled Senate might pass non-economic damage caps. However, Speaker Ron Ramsey (R-Blountville) and Senate Republican leader Mark Norris (R-Collierville), who has been the point person for the TMA, have conceded that caps will not pass in the House. For that reason, they will not propose caps to the Senate. Speaker Ramsey indicated that the choice was between compromise and passage on the one hand and having a "campaign issue" on the other. Possible compromise language is now focused on frivolous lawsuits. Norris is seeking "early certification" of malpractice lawsuits by plaintiffs' attorneys and a medical expert. The concept of early certification, it is thought, would streamline the process and keep meritless claims out of the judicial system and off of a doctor's record.

All that said, as of Tuesday, there was no compromise. At least for now, the prospect of broad-based medical reform is diminished.

AT&T v. Cable and Local Government

In the House Commerce Committee, the "Competitive Cable and Video Services Act" was introduced with extensive testimony by AT&T. This bill, with bipartisan sponsors, positions AT&T against the cable industry and the Tennessee Municipal League. AT&T wants approval for a statewide franchise to offer video service without requiring approval of local municipalities. The bill is being vetted in the full Committee so that all members will "have the ability to hear this debate," according to Chairman Charles Curtiss (D-Sparta). He expects four to five weeks of hearing testimony from various interests before sending the bill to the Utilities and Banking Subcommittee for an initial vote.

Sales Tax on Food

Senator Mae Beavers (R-Mt. Juliet) presented bills into the Senate Tax Subcommittee that would reduce the 6 percent state sales tax on food incrementally by a half-cent per year until it is eliminated. She pointed out that there was a budget surplus in 2006 of \$411.2 million. The half-cent food tax cut would, according to estimates, reduce revenue by only \$40 million. While Senator Diane Black (D-Hendersonville) made a motion to move the bills, Senators Joe Haynes (D-Nashville) and Douglas Henry (D-Nashville) refrained from seconding the motion, arguing that any sales tax reduction on food could eventually lead to an income tax.

Cigarette Tax Proposal

The Better Schools Coalition, a statewide group comprised of local government officials, the state Chamber of Commerce, the Business Roundtable and a myriad of healthcare organizations, has entered the cigarette tax discussion. This group is promoting Bredesen's plan to triple the tax on cigarettes to 60 cents per pack and use the revenue to fund K-12 and higher education. The governor's plan is in deep trouble in the House Agricultural Committee where two members of his own party, Representatives John Litz (D-Morristown) and Willie "Butch" Borchert (D-Camden) are opposed to the tax increase.

Other Legislative Matters

The House Government Operations Committee voted on Old Hickory's Democratic Representative Mike Turner's "pay equity" and minimum wage bills. Both received tie votes, and the bills were passed to the Consumer and Employee Affairs Committee without recommendation.

In the House Local Government Subcommittee, Representatives Mary Pruitt (D-Nashville) and Mike Turner (D-Old Hickory), were able to move their respective convention center bills out of the Subcommittee. These bills authorize Nashville's Metropolitan Council to impose new or additional taxes on hotel stays, rental cars and taxis exiting the airport. The new revenue will be used to finance a new convention center for downtown Nashville and will give incentives for Gaylord Entertainment to expand its hotel and convention center to 3,200 rooms (the biggest in the country outside Las Vegas) and one million square feet of convention space.

The full House approved a bill to prohibit commercial companies from establishing industrial banks in Tennessee. This measure was previously passed by the Senate and now awaits the governor's approval.

Growth in Middle Tennessee

According to new census figures, Williamson County (18 miles south of Nashville) is growing by 7,300 residents per year, making it one of the fastest growing counties in the nation. The county recently passed a \$1 per square foot tax on new homes in order to fund new school construction. Rutherford County, located 30 miles southeast of Nashville, is also in the top 100 counties in the nation in terms of growth.

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