

# TENNESSEE GOVERNMENT

## Update

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

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The Tennessee General Assembly continues to mark time as the second month of the session begins. Committee and subcommittee calendars are beginning to fill up, and we anticipate that committee consideration of bills will be in full swing in the next three or four weeks. In the meantime, the finance committees are holding departmental budget hearings; the administration and Republican leadership in the Senate continue to jockey for position on respective legislative agendas; and negotiations on various measures, including the proposal for statewide video franchising, continue behind closed doors.

#### **Selling and Buying Wine**

Consideration of a bill to allow Internet and mail order sales of wine for Tennesseans was postponed as the sponsor, Representative David Shepard (D-Dickson), stated his desire to work with sponsors of similar proposals. The Fiscal Review Committee projects that such a measure would generate roughly \$10 million in state revenue and \$2.1 million for county governments as wine sales increase 4 percent statewide. The bill would enable Tennesseans to buy from out-of-state sellers and in-state wineries to sell directly to out-of-state buyers. The wine and liquor wholesalers and retailers associations are against the change and have successfully defeated similar proposals in the past.

#### **Tax Free Shopping**

Deputy Speaker Tim Burchett (R-Knoxville) has proposed to move the weekend of the one-time spring 2008 sales tax holiday to another date. Currently the popular shopping weekend is scheduled for Easter weekend, March 21-23.

Initially the bill gathered concerns from the Tennessee Department of Revenue, which is never a good sign of a bill's viability, so the sponsor elected to roll the bill for one week.

When the measure was again before the Senate Tax Subcommittee, political winds had shifted, and the bill was referred to the Finance Committee with positive recommendation and an amendment to move the date to April 25-27.

The bill will be heard by the House Budget Subcommittee on Wednesday, February 20.

#### **In the House**

The Consumer and Employee Affairs Committee approved legislation by Representative Mike Turner (D-Old Hickory) that creates nine positions, three in each grand division, to investigate employers allegedly hiring illegal immigrants. The bill comes in response to criticism about last year's legislation dealing with illegal immigrant labor. The *Nashville City Paper* used its editorial page to excoriate lawmakers for last year's bill that ostensibly punishes those who knowingly hire illegal immigrants by suspending or revoking their business license. The problem they say is that only a state or local government employee can file a complaint against a business. Only one business is under investigation so far, and the Department of Labor is not disclosing who is being investigated. The business community had concerns last year that a law that allowed anyone to file a complaint could be abused by those who might gain advantage by pointing investigators

toward certain employers. Representative Frank Nicely (R-Knoxville) opposed the bill, calling it “just another layer of bureaucracy out here harassing the people that’s paying the taxes.”

### **Statewide Video Franchise**

Chattanooga’s mayor, Ron Littlefield, said he is comfortable with a statewide franchise as long as Chattanooga’s franchise revenue is protected. House Speaker Jimmy Naifeh (D-Covington) has been negotiating with AT&T and the cable industry, which opposes a statewide franchise, to hammer out an agreement. The mayors of Nashville, Memphis, Knoxville and Chattanooga met with Speaker Naifeh and Governor Bredesen this week. The statewide franchise would enable AT&T and other video and cable providers to provide TV service statewide without having to apply for local franchises. Local governments opposed the statewide franchise effort last year. Mayor Littlefield cited the cable industry’s lawsuit against the Chattanooga Electric Power Board (EPB) as a factor in his increased comfort with the statewide franchise proposal. The lawsuit came as EPB announced its plan to invest in a \$219 million fiber-optic system that would enable it to provide video services locally. The cable industry asserts that such cross-subsidization – using electricity consumers’ money to invest in the infrastructure – is illegal. Littlefield told the *Chattanooga Times Free Press* that Comcast “has had a virtual monopoly in the Chattanooga area for a long time” and that the lawsuit was more about self-preservation than protecting consumers of electricity.

Nashville’s mayor, Karl Dean, is remaining neutral on this issue; Dean did mention, however, that he is “generally pro competition.”

### **Sanctions Proposed for Lobbyists Who Skip Training**

The Tennessee Ethics Commission recommended sanctions for those who fail to show up for mandatory training sessions. “You need to have some teeth behind that,” said Bruce Androphy, the commission’s executive director, referring to the requirement that lobbyists need to attend training. Currently there is no consequence for not attending though the commission did publish a list of all the lobbyists who failed to attend.

Anne Carr, chairwoman of the Tennessee Lobbyists Association, explained that some of the people no longer lobby or are based out of state. The ethics statute must be amended by the legislature if Androphy’s recommendation is to become law.

### **Pre-K**

A partisan split is emerging over whether to expand pre-K education. Governor Bredesen, in a speech to the Tennessee Press Association, said it would be a “terrible, terrible mistake” if pre-K was not extended beyond a provision for poor families. His budget calls for spending an additional \$25 million in order to provide for 245 more pre-K classrooms. Lt. Governor Ron Ramsey, a Republican, told the Tennessee Press Association that societal returns of universal pre-K do not justify the cost. Senator Jamie Woodson (R-Knoxville), who chairs the Senate Education Committee, cites budget concerns saying that “we don’t have the luxury of dealing with budget issues in a vacuum.”

### **Statewide Elections for Lieutenant Governor and Secretary of State**

Senator Rosalind Kurita’s (D-Clarksville) preference for having elected constitutional officers moved a step closer to reality when she joined Republicans on the Senate Judiciary Committee to pass a resolution that would have gubernatorial candidates run with a Lieutenant Governor. Governor Bredesen expressed support, but House Speaker Jimmy Naifeh (D-Covington) doesn’t like the idea. Any change would require a constitutional amendment which means that it would have to pass both chambers this year, pass in the next legislative session by a two-thirds majority and then be voted on by the citizens of Tennessee in 2010.

## **Court Proceedings**

State Rep. Rob Briley (D-Nashville), charged with leaving the scene of an accident and property damage after being chased by police in September, waived his right to a trial and pled guilty. Briley stepped down as chairman of the House Judiciary Committee after his arrest but remains in the House. He'll face at least one challenger in the Democratic primary in this year's election.

Also, Kathryn Bowers, a former state senator, was sentenced to 16 months in prison for bribery. She is the last legislator from the Tennessee Waltz sting to be sentenced. Five legislators were charged as a result of the sting and four received prison sentences. The fifth pled guilty but was not incarcerated.

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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)