

TENNESSEE GOVERNMENT

Update

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

The Special Committee of the Tennessee Senate investigating the Memphis special Senate election voted 4-1 to void the election. The four affirmative votes were two Republicans and two Democrats. Absent court intervention, the matter goes to the full Senate, tentatively Wednesday, April 19.

After 16 years in the General Assembly, House Judiciary Committee Chair Joe Fowlkes announced that he will not run for re-election. The Pulaski lawyer joins 12 other House members not seeking re-election.

The Tennessee House of Representatives will begin wrapping up business in subcommittees during the week after Easter. Because bills left unapproved in a House subcommittee are effectively dead, a quick review of bills of business interest is useful at this stage of the session.

Minimum Wage

Three Republican members of the House Budget Subcommittee voted against the minimum wage bill this week, but it escaped the "black hole" and flew to the House Finance Committee. "My intention is to go forward with the bill," said Rep. Kim McMillan (D-Clarksville), the sponsor. On April 4, the bill (SB3120 Jackson/HB 3402 Mike Turner & Kim McMillan) was successful 5-2-1 in the Senate Commerce, Labor & Agriculture Committee. In the Senate it has been referred to the Senate Calendar Committee, ready to go to the floor, but sponsors expect that it will be taken up first in the House. With normal scheduling it would get to the House floor no sooner than Thursday, April 20. The bill sets a Tennessee minimum wage of \$6.15 an hour.

Eminent Domain

A bill to clarify the definition of "public purpose" when a government sets out to condemn real estate got bogged down in the House in early April. The bill, HB 3450 Fowlkes/SB 3296 Jackson, had been fine-tuned by the Tennessee Farm Bureau and touched up to satisfy representatives of the Big Four cities. Legislators had taken a

largely hands-off attitude, letting the affected parties find a satisfactory compromise. The agreed-upon wordage (addressing basic issues brought up by the U.S. Supreme Court's 2005 Kelo decision) came to the House floor March 27 and stumbled when members of the Republican caucus tried to attach amendments that address procedural issues — the number of days notice that a property-owner gets in order to file suit to fight the takeover, for instance. Thursday the House deferred the bill until April 27, giving the Senate a chance to work on the deadlock. In the Senate, Senator Doug Jackson (D-Dickson), the sponsor, said he will try to join forces with Senator David Fowler (R-Signal Mountain) to get the bill out of the Senate Judiciary Committee Tuesday.

Predatory Lending

Craig Fitzhugh, chair of the House Finance, Ways & Means Committee, said Thursday he is once more searching among the parties involved in the predatory lending conversations for a bill that can be passed. "Predatory lending," in general, includes high cost mortgage loans that have a propensity to result in unsuspecting senior citizens or uneducated persons losing their homes in a mortgage foreclosure transaction. "The interested parties are working toward some kind of compromise. It seems that some would want to have it all in one year or nothing. My approach to the parties is 'let's see what we can agree on and pass a bill this year that would benefit the consumer,'" Fitzhugh said. "This is still a problem. It's not a major problem yet in our state, and we don't want it to be." Fitzhugh said he hoped the Department of Financial Institutions would be a neutral party that could help sort out the necessary legislation. Representatives of the industry meet with consumer lawyers on Thursday afternoon, April 20.

Broadband Communication

Most bills dealing with the expansion of broadband services are in a subcommittee of the Senate Commerce, Labor & Agriculture Committee headed by Senator Tim Burchett (R-Knoxville). Burchett said his subcommittee will meet over the summer. Thus, the bills will not be considered this session. In the House, Rep. Mark Maddox (D-Dresden) has been named chair of a broadband communication task force which is to hold its organizational session Thursday, April 27. Maddox says he hopes the task force (which has a broader scope than the Senate study committee) will have legislation ready for the 105th General Assembly in January 2007 "to put Tennessee in a competitive economic position in the broadband users' world." Rep. Randy Rinks (D-Savannah) said that in his real estate business, broadband access "is one of the requirements now when someone is looking for a home." Maddox, a technology director for Weakley County schools, said the access is also necessary for up-to-date "virtual classrooms." The "Broadband Business Certainty Act," HB 3635 McDaniel/SB 3207 Tracy (promoted by BellSouth), is a limited application which would bar the Tennessee Regulatory Authority from exercising jurisdiction over broadband in the state (a prerogative of the Federal Communications Commission). The bill has been referred to Senate Finance and is on notice in the House Finance Committee Tuesday.

Cover Tennessee

Other than the FY07 state budget, Governor Phil Bredesen's "Cover Tennessee" health insurance plan is the biggest task left for the legislature to finish, suggested House Majority Leader McMillan, who is the sponsor of the bill in the House. SB 3895 Kyle/HB 4011 is being amended to carry the governor's low-premium health care plan. In the Senate, the bill is set for Senate Government Operations Wednesday, April 19. That committee reviews any new government entities or rules proposed. In the House, the bill is on notice in the House Industrial Impact Subcommittee Tuesday, April 18. If approved, it would proceed to the parent committee, House Commerce. The costs of the bill were previously laid out to the House Finance Committee.

The National Federation of Independent Business (NFIB) published a survey of its members last week showing that 62% of respondents back the governor's new plan, and a "significant" 24% are undecided. Small business would put up a third of the cash to pay for premiums for now-uninsured employees, under Bredesen's plan. The NFIB also said the small business owners' "overriding concern" is for more details.

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