

TENNESSEE GOVERNMENT

Update

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

Cigarette Tax

A focal point of the legislative week was the House Agriculture Committee's consideration of Governor Bredesen's major proposal of the year, an increase of the cigarette tax by 40 cents per pack to fund education initiatives. The tax increase is projected to raise \$219 million, the lion's share of which was originally earmarked by the Governor for K-12 education spending.

However, during a three-hour (sometimes chaotic) debate, the final bill was approved 11-7 with changes that gutted the Governor's original intentions. The amended bill, after the legislative lawyers pieced the decisions together, would:

- 1) Cut the proposed tax increase in half, lowering it from 40 cents to 20 cents per pack (proposed by Democratic Chairman Stratton Bone (Lebanon));
- 2) Set aside \$21 million of the revenue generated by the tax to fund agricultural enhancements (proposed by bill sponsor and Majority Leader Gary Odom (D-Nashville)); and
- 3) Use the remaining revenue to reduce or eliminate sales tax on infant formula, milk, eggs, cheese, peanut butter, juice and several other staples for children, rendering the bill revenue neutral (proposed by Representative John Mark Windle (D-Livingston), and passed 12-5).

No money generated by the tax increase, as the bill was amended, would go toward the Governor's education initiatives.

The bill now moves to the Budget Subcommittee of the House Finance Committee. Additional – and probably substantial – changes are expected as the bill continues moving through committees.

The importance of this bill was underscored by the presence of Democratic Speaker Jimmy Naifeh (Covington), who cast his votes as an *ex officio* member. In addition, Democratic Representative Mary Wilder (Memphis), new to the House, joined the committee only that morning. Earlier this week, she was unanimously selected by the Shelby County Commission to fill the 89th District seat until a special election can be

held. The vacancy was created when Democrat Beverly Marrero was elected to the state Senate.

Purchasing

A number of bills revising government purchasing restrictions are successfully making their way through committees and floor action. On Monday, the House approved a measure to raise the amount over which competitive bids are required for county purchases under the general fund from \$5,000 to \$10,000. The Senate version also passed from the State and Local Committee to the Finance Committee.

In the Senate State and Local Committee, a bill was approved to allow the department of general services to use the “best value” method for purchasing goods. This means that purchasers would include not only cost and specifications in their considerations, but also other relevant factors as well, such as quality, vendor experience, installation and life cycle cost, and delivery time. The bill is now ready for a floor vote in both the House and Senate.

One other bill – approved in the same committee – authorizes the Department of General Services to purchase goods and services through an electronic reverse auction process. An amendment excludes construction services.

Finally, the House Budget Subcommittee passed a bill by Democratic Representative Les Winningham (Oneida) that revises the County Purchasing Law of 1957, granting counties the authority to conduct sales of surplus property by means of on-line auctions. This bill has already passed in the full Senate.

Legislative Briefs

Republican Senator Bill Ketron’s (Murfreesboro) bill to stop immigrants from using a federal individual taxpayer identification number to prove their immigration status passed without a negative vote in Senate floor action Monday. It now awaits House approval.

The “Credit Security Act of 2007” passed through the House Finance Committee and heads to the floor next. The Senate version will be up next week in the Commerce Committee, after meeting approval this week in the Government Operations Committee. This legislation allows consumers to place a security freeze on their credit report in order to prevent credit reporting agencies from releasing their credit information without consumers’ express authorization. In addition, it provides procedures to “unfreeze” accounts and also authorizes some protections for keeping social security numbers secure.

Campaign Spending Data

The Registry of Election Finance made its annual report this week: U.S. Senator Bob Corker spent \$18.5 million against U.S. Representative Harold Ford Jr., who spent \$15.5 million for the open seat. Phil Bredesen spent over \$6.5 million dollars in his campaign for governor, down nearly \$4 million from his 2002 campaign. The difference is due almost entirely to his use of personal funds – roughly \$3 million in his first statewide

campaign and none at all this past year. His Republican opponent, Jim Bryson, spent about \$1.5 million. Candidates for state legislature spent nearly \$13 million total. In the House, the average seat involved \$75,000 in campaign spending – \$7.4 million for 99 seats. Seventeen of the 33 Senate seats were in play at an average cost of \$315,000.

Road Projects Delayed

Transportation Commissioner Gerald Nicely, before the Senate Transportation Committee, said that 12 state road projects would have to be delayed due to lack of funding. In the last two fiscal years, the state has lost \$153 million in anticipated federal money. At the earliest, the projects would continue on October 1st, the start of the federal fiscal year. In the first Bredesen administration, as well as the Sundquist administration, nearly \$300 million from the state road fund was transferred in order to pay for other state projects and programs.

AT&T versus Cable: an Update

The House and Senate Commerce Committees heard testimony this week from the competing sides of the statewide franchising issue. AT&T wants to obtain a statewide franchise to provide video services, bypassing local governments who can also grant franchises. The Tennessee Cable Telecommunications Association, the Tennessee Municipal League and the Tennessee County Services Association oppose the proposal. Representative Charles Curtiss (D-Sparta) and others encouraged the opposing factions to “... come to the table and talk,” insisting that, “we’re not that far apart.” Curtiss went on to say that if the various sides did not come to the table to discuss the issues, then he and the Chair of the Senate Committee – Senator Steve Southerland (R-Morristown) – would organize a meeting on Monday, April 16. The secondary issues in play include whether there will be a “build out” provision (whether those granting a franchise can force a supplier to provide service to everyone in an area), and whether local governments will lose franchise fee money if a statewide system is adopted.

The materials contained herein have been abridged from the statutory sources and should not be construed or relied upon for legal advice. Readers are urged to consult legal counsel concerning particular situations and specific legal questions. To ensure compliance with requirements imposed by the IRS, we inform you that this message is not intended to be used, and cannot be used, by the addressee or any other person for the purpose of avoiding penalties that may be imposed under the Internal Revenue Code.

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