

TENNESSEE GOVERNMENT

Update

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

Ethics Bill Races to the Finish Line

The Tennessee General Assembly ended the third week of its extraordinary session on ethics on an upbeat note. In the House, the Budget Subcommittee of the Finance Committee approved a substantive amendment that addressed most of the concerns raised by the business community and others about the definition of lobbyist and random audits of employers of lobbyists. Still remaining in the bill and not affected by the Budget Subcommittee amendment is a reporting requirement by employers of lobbyists that includes compensation paid to lobbyists and expenses incurred in grass roots and media efforts directed toward legislative opinion.

In a short work week for the Senate, amendments increasing transparency of legislative business were adopted. A soft deadline was set for April 1, 2006 to add streaming video to their website. Senator Rosalind Kurita (D—Clarksville) has been emphatic that the upper chamber adopt the practice of real time viewing already offered by the House of Representatives. She cited that the "technology is available and we should to offer this to our constituents, especially now." Also added was the posting of expense and mileage information about legislators on the Internet.

The Senate's preference for outright bans of certain lobbying activity appeared to gain the upper hand; the House backed off its position that disclosure was a better idea.

Leadership is making the strong push to have the ethics bill on the floor of each house by Tuesday. Because the Senate has functioned as a Committee of all 33 members, passage should be swift. The House on the other hand will see a plethora of newly filed amendments from Representatives who have not had a chance to affect the bill.

Due to significant differences in content from each house, a conference committee is expected to organize and start work on Wednesday. This sets the bill up for passage as early as Thursday—or not.

Regular Session

If that schedule is met, the regular session of the General Assembly will begin with the Governor's State of the State Address on Monday evening, February 6. One of the initiatives the Governor is expected to detail is a residential high school for math and science students. The school would be located in Tullahoma, site of the U.T. Space Institute.

Rule changes will be made by both houses in the way of bill filing deadlines to keep the Legislature on schedule for an end-of-May *sine die*. Look for deadlines to begin as early as Thursday, February 16.

Tax on Software

Reacting to a cry of "foul" by the business community and others, the State Board of Equalization deferred the issue of taxing application software this week. Staff recommended to the board additional examination and evaluation of the matter—to include analysis of other state's policies.

Currently, computer software for businesses is treated as intangible personal property and is only subject to sales and use tax in Tennessee. The proposed rule before the State Board sought to change software's status to tangible personal property, thus subject to business and property taxation.

A timeline for re-examination of the issues was not given.

Senate goes to Memphis

Sixteen Senate Republicans and one Democrat, all of whom voted to set aside the election of Ophelia Ford to the Senate's 29th district, traveled to Memphis in a show of solidarity for two of their members who were subpoenaed by U.S. Dist. Judge Bernice Donald. Three senators, Mark Norris, R-Collierville, Curtis Person, R-Memphis, and Don McLeary, D-Humboldt, had been summoned to testify. The federal judge said she would rule by February 1 on the case brought by state Senator Ophelia Ford. Senator Ford got a temporary injunction against the Senate acting on SR 7002, a measure passed the previous week to void the special election in Senate District 29.

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