The Research Review

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## House Committee Activity: April 15 - 17, 2002

***The House Judiciary Committee met on Tuesday and Wednesday of this week to consider a lengthy calendar. The committee took action on a number of bills and will consider the remainder next Wednesday. Shown are (from left) Representative Newton, administrative secretary Pat Farmer, Chairman Buck and Vice Chairman McMillan.***

## Agriculture

*Ryan Swindell*

The full **Agriculture Committee** met Tuesday with one bill to consider. **HB1716** by Rep. McMillan was amended and recommended to the Finance, Ways and Means Committee. As amended, this bill would classify *aggravated* cruelty to animals as a Class A misdemeanor for a first offense and a Class E felony for a second or subsequent offense. It defines "aggravated cruelty" to mean "conduct which is done or carried out in a depraved *and* sadistic manner and which tortures *or* maims an animal." It would also exempt certain activities such as dispatching an animal in any manner absent of aggravated cruelty, dispatching wild or abandoned animals on a farm or residential property, applying methods and equipment used to train animals. Horses and livestock would also be exempt from the bill. If a person is convicted of this offense the courts are allowed to order a psychological examination regardless of age, forfeiture of animals, liability for the costs of impounding the animals, and liability for damages to the owner of the animals.

The **Marketing and Commodities Subcommittee** is closed.

The **Agriculture Resource and Industry Subcommittee** is closed.

## Children & Family Affairs

*Shannon Romain*

The **Children and Family Affairs full committee** held it's final meeting on Tuesday. The committee had three bills on the calendar. **HB 2583** by Rep. J. Deberry reorganizing the child support and alimony statutes and **HB 2338** by Rep. Bowers permitting parents to requests mandatory, alternating, primary, 6 month residential custody for were deferred until 2003.

**HB 2124** by Rep. Bone was reviewed and referred to Calendar and Rules. As amended, the bill establishes the domestic violence shelter funding program and removes the $50,000 cap on funding that any one center may now receive. The domestic shelter funding program had been administered and reviewed by the Department of Health and Human services until approximately 1994. The program is now unofficially administered by two state agencies. The Department of Finance Administration will oversee the family violence shelter services. The department's Criminal Justice Office will focus primarily on funding the program, however, under the bill, the department will not have the authority to review the program's content or performance. The Department of Children's Services shall administer the child abuse prevention services. Each department shall receive 50% of the funds received by the state to fund the program.

The bill also removes the $50,000 cap on the amount of funds that any one shelter may currently receive. Under the legislation, the departments shall have the discretion to pay an agency any amount of money deemed necessary to cover provided services.

## Conservation & Environment

*Greg E. Adkins*

The full **Conservation & Environment Committee** met on Wednesday, April 17, 2002, to consider two bills. **HB 3100** by Rep. McCord was rolled one week. **HB 2960** by Rep. Fitzhugh passed to C&R as amended. The amended bill would allow the Commissioner of TDEC to develop a program for the evaluation of new technologies for subsurface sewage systems. The amendment allows the department to set fees to implement the program.

The **Environment Subcommittee** met on Tuesday, April 16, 2002 and passed **HB 3148** by Rep. McCord as amended. The amendment rewrites the bill enacting the "Tennessee Water Resources Information Act." The bill allows TDEC to analyze regular water withdraw that is over ten thousand gallons per day. A person that withdraws over ten thousand gallons per day must register with the TDEC commissioner. Agricultural water withdraw is exempt from the register requirement. The bills allows the TDEC commissioner to collect and compile water quantity data from the individuals that are registered in the program, and it specifies that he shall appoint a technical advisory committee to advise the commissioner about the status of the state's water resources and future water planning efforts. Lastly, the amendment increased the well drillers' annual license to $100.

## Consumer & Employee Affairs

*Shannon Romain*

**The Consumer and Employee Affairs Committee** convened this week, however, all bills on the calendar were delayed until next week.

## Education

*Jessica Peccolo*

**Full Committee**

In its Tuesday meeting, the **House Education Committee** took up a full calendar of twelve bills, but ended the meeting only having discussed one. **HB 1131** (Winningham), the Tennessee Charter Schools Act of 2001, generated quite a bit of discussion from committee members, but there was no action taken.

The Ad Hoc Committee on Charter Schools has charged the Department of Education to draft language for an amendment. Commissioner Faye Taylor and representatives from the department were there to discuss the proposal, but committee members spent the full two hours with questions and comments on the legislation. Chairman Winningham announced that the full committee will meet again on Monday afternoon (the 23rd), on Tuesday at its regular time, and possibly on Tuesday afternoon.

**K-12 Subcommittee**

The **K-12 Subcommittee** finished its final calendar in Wednesday's meeting. **SJR 0569** (Fowlkes) encourages schools to promote daily physical activity and healthy lifestyles to their students. The resolution was passed to full committee. **HB 2411** (Sharp) allows retired teachers to be rehired immediately and does not require the rehiring to be a year by year condition. The bill was passed to full committee.

The committee has spent several weeks discussing **HB 3159** (Montgomery). The legislation deals with accountability and aims at getting Tennessee in line with the accountability standards passed in the new federal legislation. Specifically, the bill deals with the procedure for placing and reviewing schools on notice. It also outlines the steps that will be taken to help schools that are placed on notice and the options those schools have to work toward improvement. The first amendment to the bill rewrites the bill to clarify any typographical errors in the original legislation. The second amendment works to further clarify the options schools on probation have. Both amendments were adopted and the bill was passed to full committee.

**HB 2617** (Towns) requests that the Commissioner of Education expands and updates the safe school guidelines periodically. Representative Towns also brought **HB 2264** before the committee. The bill gives educators the authority to expel students who use verbally abusive or offensive language. It also requires that students address authority figures with courtesy titles such as "Ma'am", "Sir", "Mr.", "Ms.", etc. Both bills were passed to full committee.

Chairman Winningham sponsors two bills that were passed to full committee from K-12 this week. **HB 2828** was amended to clarify that the Department of Education was the only entity that was required to study schools placed on notice. The legislation makes it permissible for the Office of Education Accountability to participate in the studies as its resources and personnel allow. **HB 2827** (Winningham) forms a group to establish criteria for those wishing access to Tennessee's database of information on student testing scores. The amended version of this bill was passed.

The remainder of the calendar was dispensed as follows:

*Off Notice:* **HB 2582, HB 2616, HB 2381,** and **HB 2826**
*General Sub:* **HB 2125, HB 2202, HB 2205, HB 0681, HB 2432, HB 2380 HB 2378, and HB 2379**
*Oversight:* **HB 3085** and **HB 3083**

The K-12 Subcommittee, will hold its final meeting next Wednesday, April 24th.

**Higher Education Subcommittee**

The **Higher Education Subcommittee** is closed.

## Finance, Ways & Means

*Cathy Higgins*

**Finance, Ways and Means Committee**
**Tuesday April 16, 2002**

The full committee had 16 bills on calendar this week. Fourteen of the bills passed to Calendar and Rules. **HB 2433 by Whitson** and **HB 3003 by Roach** were rolled at the sponsor's request.

**HB 2672 (Jones, U)** from State and Local, was amended in Finance to require TACIR to study the overall effect on local public education when property taxes or in lieu of tax payments earmarked for education are abated or reduced. The study is to be conducted from existing resources. The report is due to the 103rd General Assembly no later than February 28, 2003.

**HB 2371 (Jones, U)** from State and Local, as amended, adds a new subsection relative to voter registration lists and purchase by citizens. It provides that any list of registered voters compiled by the state coordinator of elections can be sold at a price established by the Secretary of State. Revenue received is to be deposited into the "voting machine loan fund." The list shall be available for purchase to any person who certifies that such list will be used for political purposes only.

**SJR 520 (Shepard)** names a segment of highway in Hickman County in honor of "Kenneth N. 'Pete' Springer." As amended in Finance, the resolution will take effect only if funding is specifically provided for in the appropriations act or through non-state sources.

**HB 2258 (Bowers)** from Health and Human Resources, extends the current caregiver pilot programs. As amended in Finance, it provides that if TANF or other federal funds are terminated, or if available non-state sources are inadequate to fully fund the extension of the pilot programs, the pilot programs will cease to exist.

**HJR 746 (Rinks)** as amended in Finance proposes a constitutional amendment to Article II, Section 18. It provides that no bill that either 1) raises the rate of sales tax or any tax measured by income, once both such taxes have been imposed and are in effect, or 2) creates new exemptions, credits, or deductions or to increase any exemptions, credits or deductions from sales tax or any tax measured by income, shall become law unless, on third and final consideration, it has received the assent of three-fifths of all members from both houses. This resolution shall take effect only if funding is specifically provided for in the appropriations bill.

**HB 2434 (Todd)** from State and Local, was amended in Finance to permit county governments to "opt in" rather than "opt out" of the "Planning Commission and Board of Zoning Appeals Training and Continuing Education Act of 2002."

**HB 1194 (DeBerry, L)** as amended in Finance requires the Prevailing Wage Commission to report to the General Assembly on or before January 1, 2003 with recommendations for improvement to the current prevailing wage survey process.

**HB 3010 (Arriola)** broadens the exemption for property taxes to include properties financed under the federal McKinney-Vento Homeless Assistance Act and HOME Investment Partnership Program. The bill specifies that the provisions do not apply to transitional or temporary housing that qualifies as charitable use of property by a religious, charitable, scientific or nonprofit educational institution.

**HB 2339 (Bowers)** from Health and Human Resources permit a licensed natural hair stylist to work without supervision of a licensed cosmetologist in an establishment licensed by the Board.

**HJR 683 (Bone)** names a bridge in Wilson County in honor of St. John Thomas Burton and Sp4 James Edward Bush. Local government will absorb the cost of the signs.

**HB 1247 (Head)** extends the use of special "vehicle preparation tag" for entities so that they can test vehicles within a twenty-mile radius of their business.

**HB 1816 (Kernell)** from State and Local enacts the "Family Visitation and Crime Reduction Act."

**HB 2259 (McDaniel)** from Judiciary addresses issues associated with individuals who maintain financial responsibility for the operation of petroleum underground storage tanks. Allows property owners, who are named in third party lawsuits, to receive compensation from the Tennessee Petroleum Underground Storage Tank Fund.

**HB 2970 (Tidwell)** names a bridge in Wayne County in honor of Louish B. Thompson. Local government will absorb the cost of the sign.

**Budget Subcommittee**
**Wednesday, April 17, 2002**

Budget Sub met to discuss 37 bills on calendar. Several were rolled to future calendars. The following bills were recommended to full committee.

**HB 2954 (Rinks)** as amended in Budget Sub requires the comptroller to select a municipal electric system providing cable services for a pilot project. The pilot project is to determine the feasibility of expanding the cable service provided by this municipal electric system outside of the electric system's boundary. The comptroller is to report to the General Assembly no later than January 31, 2005 with recommendations regarding whether the pilot project should be continued or expanded to other systems.

**HB 2105 (Black)** from Health and Human Resources allows trained volunteer school personnel to administer glucagon to students in emergency situations.

**HB 1056 (Cole, Ronnie)** from State and Local requires that an electric cooperative maintain a separate for-profit corporate entity in order to enter into the business of selling propane gas.

**HB 3132 (White, Kisber)** from Judiciary changes how the Administrative Office of the Courts counts a criminal case for the purpose of tracking caseload statistics. It also redirects local revenue from the county clerk's data entry fee, for five years, for computerization, information systems and electronic record management costs of the clerk's office.

**HB 2856 (Kisber)** amends the F&E tax law to expand the stock held deduction of franchise taxes. Currently, a taxpayer with an interest in any other F&E taxpayer doing business in this State can deduct the value of the stock from their F&E tax base. This eliminates double taxation. This legislation will expand the deduction definition to include insurance companies paying the gross premium tax in additional to all other F&E taxpayers. F&E taxes are being entirely phased out on insurance for tax years beginning on or after December 15, 2002. The purpose of this legislation is to continue to allow taxpayers with stock in insurance companies doing business in Tennessee to

take the deduction against the franchise tax after insurance companies are no longer subject to F&E taxes.

**HB 3097 (McCord)** from Conservation and Environment changes the fine for illegal taking, possession or destruction of wildlife. The fine is changed from "up to $500" to "up to $1,000." The bill also permits TWRA to establish rules and regulations to permit a licensed trapper to release small game animals in counties contiguous to the counties where the animals were trapped.

**HB 2892 (McKee)** from Commerce increases the firework permit fee that fire marshals can charge for wholesalers from $250 to $500; for seasonal retailers from $25 to $100; and for display from $10 to $50. Manufacturers, distributors, and retailers remain at $750.

**HB 2331 (Newton)** from Judiciary clarifies that certain business activities that comply with the Consumer Protection Act would not be considered unlawful business transactions for the purposes of the gambling law.

**HB 2429 (Odom)** from Health and Human Resources creates a designation of "advanced practice nurse."

**HJR 0592 (Phillips)** from Education renames the campus at the Shelbyville Tennessee Technology Center to the "James L. Bomar, Jr. Technology Center."

**HB 2606 (West)** from Commerce eliminates the current "Private Protective Services Advisory Commission." Places those responsibilities with the reorganized "Private Investigation and Polygraph Commission" which is renamed the "Private Investigation, Polygraph, and Private Protective Services Commission."

**HB 1736 (West)** from Health and Human Resources requires that inspections for medical radiation machines are to be performed by a qualified individual, that the inspection and inspection report are to meet the Department's rules.

**HB 347 (Buck)** from Judiciary eliminates the General Session's judge compensation classification 8. Currently counties are divided into 8 classes based on population of the county and General Session Judges' salaries are based on this classification. This bill eliminates the 8th classification, which affects only Pickett County and moves that county to the 7th Classification. The effective date of this is bill is September 1, 2006.

**HB 1767 (McMillan)** from State and Local permits a registered voter who has changed residence or whose precinct has been changed, if in the same county, the option to vote at a new or prior polling place. Computerized counties are to be equipped with computer capabilities linked to the county election commission to allow a voter's records to be changed or corrected.

**HB 2301 (Kisber)** from Education authorizes the commissioner of education to administer a contract between the department and Miss Tennessee regarding safe and drug-free schools, subject to available federal funding.

## Government Operations

*Ryan Swindell*

The **Government Operations Committee** met with four bills on the calendar. **HB 2405** by Rep. Ronnie Davis was *reviewed and referred* to Conservation. Three sunset bills by Chairman Kernell were recommended to Calendar & Rules: **HB 2755** would extend the Tennessee Community Resource Board for six years and was amended to remove the word “families” from the original amendatory language; **HB 2770** would extend the Tennessee Rehabilitative Initiative in Correction Board (TRICOR) for four years; and **HB 2710** would extend the Board of Accountancy for six years. The Board of Accountancy appeared before the committee to discuss their monitoring of other states and SEC rule changes in light of the recent events that took place with Enron.

## Health & Human Resources

*Judy Narramore*

The **Health & Human Resources Committee** met at noon on Tuesday with four bills on the calendar. **HB 2412** by Rep. Arriola concerning nursing homes was rolled one week by the sponsor. **HB 2479** by Rep. Patton as amended concerning revocation of a health professional’s license for failure to repay a student loan was discussed and rolled one week to obtain an Attorney General’s opinion. **HB 2939** by Rep. Montgomery as amended concerning hair wrapping was discussed and debated at length and ultimately rolled one week by the sponsor. **HB 3203** by Rep. McMillan as amended, which would make changes and additions to the practice of dentistry provisions, was referred to C&R. As amended, the bill includes provisions related to continuing education, procedures performed by

dental hygienists and dental assistants, licensure of persons with a license in another state, and certain exemptions from jury duty.

The **Human Services and Mental Health Subcommittee** is closed subject to the call of the Chair. The **Health Access Subcommittee** did not have bills on notice and did not meet. The **Health Subcommittee** is closed.

## Judiciary

*Paige Edwards*

***The House Judiciary Committee***

### Civil Procedure & Practice

On Tuesday, the **Civil Procedure & Practice Subcommittee** reopened to consider the following three bills:

- **HB 2838** by Representative Buck requires the Administrative Office of the Courts, in consultation with the district attorneys general conference, to file a report with the house and the senate that reflects the number of judges, district attorneys, and criminal investigators in each judicial district. This report would be made every eight years. The report would be given to the chairmen of the house and senate judiciary committees so that legislation could be presented to update the Tennessee Code Annotated.
- **HB 1434** by Representative Sands, as amended, clarifies that a state entity would be prohibited from disclosing a citizen's social security number without permission from the citizen or authorization under state or federal law. This bill creates exceptions for the disclosure of social security numbers. Also, this bill defines a state entity for the purpose of this legislation.
- **HB 2464** by Representative Head allows a plaintiff to recover attorney fees, upon determination by the court, on suits involving open accounts. This bill would apply to debtors who fail to pay an open account within 30 days after receiving a written notice.

### Full Committee

On Tuesday and Wednesday, the **Full Judiciary Committee** met to consider 29 bills. HB 1636 by Representative Sargent, HB 3189 by Representative Hargrove, HB 372 by Representative Westmoreland, HB 388 by Representative White, HB 589 by Representative Chumney, and HB 560 by Representative Boyer were taken off notice. HB 2651 by Representative Turner (Hamilton), HB 3232 by Representative Kisber, HB 3027 by Representative Kisber, HB 402 by Representative Chumney, HB 2195 by Representative Bunch, HB 2675 by Representative Miller, and HB 2797 by Representative Westmoreland were rolled for one week. HB 151 by Representative Brooks, HB 1884 by Representative Towns, and HB 2929 by Representative Lewis were sent to the summer/fall study committee.

The following five bills were sent to **Finance, Ways, & Means**:

- **HB 2652** by Representative Turner (Hamilton), as amended, requires the courts in Hamilton County to impose a blood alcohol test fee against a defendant who is charged with a DUI or DWI offense. The fee would be established by the county legislative body and would not exceed $50.00. This bill clarifies that the fee would be assessed only if a blood sample actually is taken from a defendant convicted of a DUI or DWI offense and the test actually is performed on the sample.
- **HB 2885** by Representative Ford, as amended, creates another factor for determining severe child abuse. This bill adds that an individual would commit severe child abuse by knowingly allowing a child to be present within a structure where methamphetamine is created.
- **HB 2845** by Representative Chumney, as amended, creates an alternative child protective services system pilot program. Also, this bill creates a mental health court pilot project in Shelby County. The provisions of this bill would be subject to available funding.
- **HB 1876** by Representative Towns, as amended, revises the law regarding the restoration of citizenship rights for convicted felons. Also, this bill requires the Administrative Office of the Courts to create a form for individuals to use when a petition is made to the court for the restoration of citizenship rights.

- **HB 2570** by Representative Buck, as amended, updates the fees for serving process. Also, this bill addresses issues relating to private process servers.

The following eight bills were sent to **Calendar & Rules:**

- **HB 3125** by Representative Armstrong redefines gambling to exclude pinball machines manufactured before 1980 that display a $350 Class 1 tax receipt as described in T.C.A. § 67-4-507.
- **HB 2924** by Representative J. DeBerry, as amended, would prevent court clerks from being held liable for uncollected privilege taxes when the general sessions judge suspends the court costs and privilege taxes for a case.
- **HB 2699** by Representative Scroggs, as amended, clarifies that a government entity would not be liable in a malicious harassment action unless the malicious harassment is conducted pursuant to a policy or practice of the government entity. Under this bill, a government entity would not be liable for punitive damages. The intent of this bill is to clarify an ambiguity in the common law.
- **HB 2525** by Representative McMillan, as amended, would treat documents that are filed in an order of protection case as confidential. These documents could be transmitted to TBI or other law enforcement agencies. The provisions of this bill would not apply to forms promulgated by the supreme court pursuant to T.C.A. § 36-3-604(b).
- **HB 2392** by Representative Bunch clarifies the legislative intent for instruments that are acknowledged by notaries public. The inclusion or omission of language as to the notary's personal knowledge or proof of the signor's identity would not affect the validity of any certificate if the intent to authenticate, acknowledge, or verify a document exists. Also, this bill provides that the form of the certificate would not determine the validity of an acknowledgment, the eligibility of an instrument for recording, the ownership of property, or the determination of any other right or obligation. Under this bill, the burden is placed on the individual challenging the validity of an authentication, acknowledgment, or verification to prove that a forgery occurred.
- **HB 2389** by Representative Bunch, as amended, authorizes POST-certified police officers to execute distress warrants that are issued for business taxes levied by a municipality. The authority would be granted by local ordinance.
- **HB 2431** by Representative Brown, as amended, adds disruptions in a court proceeding to the list of situations that government entities would be immune from suit.
- **HB 2332** by Representative Buck, as amended, clarifies that an owner of a private airstrip would not owe a duty of care to an individual who lands an airplane on such airstrip during an emergency situation. The owner of the airstrip would be liable for gross negligence and willful or wanton conduct. The intent of this bill is to encourage private airstrip owners to register with the FAA.

## State & Local Government

*Lawrence Hall, Jr.*

This week the **House State and Local Government** full committee held its final meeting for this session. **HB 3026**, by Rep. Miller, was amended and passed to Finance, Ways and Means. This bill creates a special study committee to study the implementation of a state lottery and requires that the committee report back to the legislature by February 1, 2003. **HB 2553**, by Rep. Clem, was passed to Calendar and Rules. This bill, as amended, will encourage local governments to post required meeting notices on a website in addition to the local governments' other means of notification of public meetings. **HB 2623**, by Rep. Patton, requires the POST commission to issue a certificate of compliance to security officers of any university that meet the qualifications for employment as a police officer. This bill was passed to Calendar and Rules. **HB 2189**, by Rep. Windle, will make the salary of commercial vehicle enforcement officers equivalent to the salary of a commissioned member of the highway patrol. This bill passed to Finance, Ways, and Means.

**All House State and Local Government committees are now closed.**

## Transportation

*Greg E. Adkins*

The full **Transportation Committee** met on Wednesday, April 17, 2002, and considered nine bills.

**HB 1893** by Rep. Head was rolled one week. The amended bill would require new specialty earmarked license plates to only go into production if there are one

thousand orders (current law is five hundred plates). The amendment also requires the Comptroller to do a cost analysis study to determine if the specialty plates are not completely self funded.

**HB 2354** by Rep. Maddox was rolled one week. The bill requires accident reports from state troopers to include information regarding cell phones used at the time of the wreck.

**HB 2796** by Rep. Ridgeway passed to FW&M. The bill would license low speed motor vehicles and create a $9.50 registration fee to operate the vehicle. A class D driver's license would be required to operate the vehicle. Locals could prohibit the operation of the vehicle on roads in their jurisdictions for safety concerns.

**HJR 789** by Rep Newton passed to FW&M. It creates a highway sign for "Sheriff Israel Smith Memorial Highway--US Highway 11 in Bradley County.

**HJR 779** by Rep. Maddox passed to FW&M. It creates the "George Broussard Memorial Bridge" sign.

**HB 2367** by Rep. Montgomery passed to FW&M. The bill authorizes the issuance of the Rocky Mountain Elk Foundation new specialty earmarked license plate.

**HB 3186** by Rep Maddox passed to C&R as amended. The amended rewrites the bill and changes drivers license issuance in Tennessee. If an individual does not have a social security number or proper INS documentation then the driver's license will only be issued for one year instead of five years. The amendment also changes the photo identification card (different than the driver's license) and requires that one must have a social security number or proper INS documentation to receive an identification card.

**HB 2106** by Rep. Ferguson passed to C&R as amended. The amended bill prohibits the issuance of a certificate to drive a school bus in Tennessee if the applicant has been convicted of a DUI, vehicle assault, vehicular homicide, aggravated vehicular homicide, or a manufacture, delivery, sale, or possession of a controlled substance within five years of such person's request for the certificate. If the request for the certificate is more than five years of the conviction, then the board of education has discretion to issue the certificate.

**HB 2246** by Rep Sharp passed to FWM as amended. The amended bill allows TDOT to minimize the impacts from highway traffic noise in noise-sensitive areas and classifies that "houses of worship," instead of "churches," are included in those noise sensitive areas.