

The Research Review

PUBLISHED BY THE RESEARCH DIVISION OF THE TENNESSEE HOUSE OF REPRESENTATIVES

May 3, 2007



The Health and Human Resources Committee.

The Research Division
Rachel Jackson Building
320 Sixth Avenue North, 1st Floor
Nashville, TN 37243

Photo of the week:



Head Coach Rick Insell and the Women's Basketball Team from Middle Tennessee State University were honored on the House floor this week for another sensational season. The Blue Raiders ended their 2006-07 season 30-4 overall, advancing to the second round of the NCAA Tournament for the third time in four years and the fourth time in school history. (With Coach Insell at left is MTSU President Sidney McPhee.)

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Agriculture

Jeremy Maxwell

Agriculture Committee met Tuesday to consider ten bills on calendar. The following bill was **referred to FWM as amended**:

HB 976 (Niceley) prohibits the department of agriculture from participating in the establishment of the USDA's National Animal Identification System. As amended, it allows the department of agriculture and other state government entities and political subdivisions to participate in the establishment of a national animal identification system only if the participation by producers in such a program is voluntary. Should the federal government mandate participation in a national identification program, the state of Tennessee may appropriate funds and provide assistance to producers to comply with the mandate.

The following bills were **rolled one week**:

HB 1855 (Litz) authorizes commissioner of agriculture to establish a voluntary animal identification system for livestock.

HB 439 (Floyd) prohibits smoking in certain food service establishments to which children are granted access; prohibits smoking in all buildings owned or operated by county or municipal government.

HB 1249 (Odom) removes preemption concerning local regulation of tobacco products and authorizes local regulation of tobacco product usage.

HB 1395 (Jones, U) allows restaurant to choose to have a designated smoking area or to allow children service in the establishment, but not both.

The full committee also heard additional testimony on the smoking ban bills and plans on taking action on them next week.

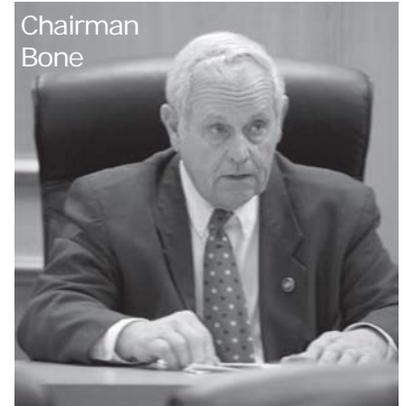
HB 1583 (Fitzhugh) prohibits cigarette manufacturers from targeting advertisements toward significant youth audiences.

HB1851 (Bone) enacts the "Non-Smoker Protection Act" which prohibits smoking in any public place except for certain types of establishments that are defined.

HB 2072 (Maddox) expands prohibitions on smoking on school grounds.

HB 2336 (Odom) creates the Tennessee Smokefree Air Law of 2007 which prohibits smoking in any enclosed public place and outdoor arenas.

HB 762 (Niceley) requires all poultry processed in this or other states and sold in this state to state whether arsenic was fed to poultry at any time prior to processing.



Chairman
Bone



Children & Family Affairs

Amelia Mitchell

The **Children & Family Affairs Committee** met this week and the following bills passed out to Calendar & Rules:

HB 822 by Rep. Hood as amended clarifies that the relationships between caretakers and children as well as between parents and children should be considered when a court is determining a custody arrangement in the best interest of the child.

HB 1981 by Rep. DuBois as amended requires a waiting period for any divorce involving parties with minor children. This bill also requires Rule 31 mediation before the divorce proceedings go to court.

The following bills were rolled one week:

HB 351 by Rep. Hardaway as amended clarifies the law concerning willful failure to support a child in a termination of parental rights proceeding. This bill is to be called the Anna Mae He Act.

HB 1185 by Rep. S. Jones as amended clarifies the calculation of child support shall not include a determination that a parent is willfully or voluntarily underemployed parent in the following circumstances:

1. the parent has been partially or completely unemployed for no less than 3 months;
2. the mother of the child was pregnant with that child at the time of the divorce filing;
3. the mother of the child was pregnant with the first child born of the marriage that is subject of the divorce petition at the time of the filing, and the parent that wants to stay unemployed can prove that it was the intention of the parties for that to happen before conception.

The following bill was taken off notice:

HB 490 by Rep. Sontany adds that if a petition alleging that a juvenile is an unruly child was filed by law enforcement, and if the court finds that it is in the best interest of the child, then the court may order that the juvenile and the juvenile's parent or guardian participate in any counseling or other services provided by the petitioning law enforcement agency, if available. If the court orders counseling by the law enforcement agency, and if the parent or guardian willfully fails to attend, then the parent or guardian would commit the offense of contributing to the delinquency or unruly behavior of a child, which is a Class A misdemeanor.

Vice Chair Jones



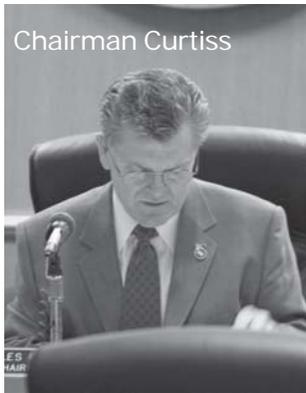


Commerce

Matt Barnes

Full Committee

The **Commerce Committee** met Tuesday to hear 35 bills. HBs 2165, 2167, 2249, 1551, 2095, 2043, 1491, 1428, 69, 1481, 1948, 2286, 221, 1421, 1452, 1878, 1005, 549, and HR 60 were rolled for one week. HB 2301 was rolled to the last calendar and HB 352 to March 2008. HB 1166 was taken off notice.



Chairman Curtis

HB 680 (Fitzhugh) closes a loophole in the Residential Closing Funds Distribution Act of 2005, specifying that the definition of “commercial real

estate” applies only in that part. [*passed to Calendar and Rules*]

HB 2233 (Fitzhugh) clarifies the circumstances under which Commerce and Insurance may deny, suspend, or revoke a license to sell securities in the state. [*passed to Calendar and Rules*]

HB 474 (Fitzhugh) allows a charitable organization, in meeting the reserve requirement to qualify as a qualified charitable gift annuity, a deduction for all or any portion of an annuity risk that reflects a reinsurance of this risk by a life insurance company authorized to do business in Tennessee. [*passed to Calendar and Rules*]



Rep. Sontany

HB 2256 (Sontany), with an amendment that rewrites it, revises the standards relative to explosives and blasting. At any dwelling house, public building, school, church, commercial or institutional building normally occupied within

300 feet of any blast hole, the responsible blasting firm shall offer the owner or occupant a pre-blast survey at no charge when the standard table of distance is

exceeded. This act shall not apply to permanent blasting operations. The amendment further requires a limited blaster, as well as a registered blaster, who is not a full-time employee of a registered firm to have a current liability insurance policy that includes blasting coverage in the amount of \$1 million during all blasting operations for the use and benefit of any person who may be aggrieved by a wrongful act of omission of the blaster. [*passed to Calendar and Rules as amended*]

HB 1876 (McDonald) enacts the “Geologist Registration Act of 2007” for the purpose of enacting additional qualifying criteria in a field that at present is only partially regulated. As amended, the bill requires all those practicing geology in the state to obtain a license from the Department of Commerce and Insurance. Those exempt include persons engaged solely in teaching the science of geology or engaged in nonpublic research; employees or subordinates of a registered geologist, insofar as they act solely in that capacity; those employed by the State of Tennessee; and persons, firms, or corporations not engaged in the practice of geology and providing services to an employer only and not to the general public. [*passed to Finance, Ways and Means as amended*]



Rep. McDonald

HB 716 (Tindell) requires persons excavating within 100 feet of a street or highway to give notice to the appropriate utilities so underground utilities will not be adversely affected. An amendment to the bill authorizes a general DIG certificate for agricultural land that lies within the 100 feet boundary when no utilities are located within the area. The amendment and an amendment to the amendment further require the person excavating to serve notice at least three working days prior to the date of excavation or demolition. If a



Commerce

Matt Barnes

utility operator fails to locate its utilities within that time period and an underground facility is subsequently damaged, the excavator shall not be liable provided that reasonable care is exercised when the excavator observes clear evidence of the presence of an unmarked utility in the area. *[passed to Calendar and Rules as amended]*

HB 361 (Rowland), with an amendment that rewrites it, authorizes the Motor Vehicle Commission to revoke or suspend the license of or levy a civil penalty against a dealer who, in a transaction conditioned upon final funding to the dealer by a third party financial institution, fails to: 1) provide the customer with the conditional delivery agreement set forth in the section; 2) retain possession of the trade-in vehicle until the dealer has received funding; 3) allow the consumer to void the transaction if any of the terms change after the consumer has accepted them; or 4) pay off the agreed-upon indebtedness on the trade-in within 30 days after the dealer has received funding. *[passed to Calendar and Rules as amended]*

HB 2122 (Odom) establishes a person's qualification to take the Tennessee Mechanical Plumbing (CMC-A) examination as having three years' experience as a plumber prior to taking the examination or having an engineering degree in plumbing or in a mechanical field. *[passed to Calendar and Rules]*



Rep. Odom

HB 2259 (Odom) revises provisions associated with the licensing of funeral establishments, directors, and embalmers. As amended, the bill requires every entity desiring to commence the operation of a funeral establishment after January 1, 2008, to apply to the Board of Funeral Directors and

Embalmers. Further, no person shall be granted a license to engage in the

practice of embalming unless the person applies with the Board. The amendment removes the exception from this provision for those licensed as an embalmer prior to February 8, 1951. *[passed to Calendar and Rules as amended]*

HB 2257 (Odom) authorizes Commerce and Insurance to levy penalties for violations of requirements for modular buildings. *[passed to Calendar and Rules]*

HB 383 (Coleman), with an amendment that rewrites it, allows a producer of motor vehicles to lease no more than three vehicles to each regular full-time working employee under no less than a 12-month closed-end lease, as opposed to present law requiring no less than an 18-month closed-end lease. *[passed to Calendar and Rules as amended]*

HB 1343 (Overbey), with an amendment that rewrites it, revises the provisions governing audits of a pharmacist or pharmacy by a covered entity, a pharmacy benefits manager, the state or its political subdivisions. *[passed to Calendar and Rules as amended]*

HB 1680 (Eldridge) adds requirements to those applying for an insurance producer license. *[passed to Calendar and Rules]*



Rep. Eldridge

Industrial Impact Subcommittee

The **Industrial Impact Subcommittee** met to hear 15 bills, including the Addendum. This was supposed to be the last meeting, but the subcommittee may meet again during a portion of the full Commerce time slot. Several bills are still being worked on and will be held in the meantime. Those include: HBs 644, 1726, and 59. HBs 1353, 316, 2145 were taken off notice, and HBs 1854, 2220, 817, and 1590 were rolled to 2008.



Commerce

Matt Barnes

HB 2232 (Briley), with an amendment that rewrites it, authorizes the commissioner of Commerce and Insurance, after providing notice and the opportunity for a contested case hearing in accordance with present law, to order an insurer to pay a civil penalty of not more than \$1,000 for each violation. The penalty shall not exceed \$100,000 in aggregate unless the insurer knowingly violates a statute, rule or order. In that case, the penalty shall not exceed \$25,000 for each violation and not more than \$250,000 in aggregate. The commissioner may also suspend or revoke a license. *[passed to full committee as amended]*

HB 315 (DeBerry, J.), with an amendment that rewrites it, requires a health insurance entity, within 90 days after receipt of the application, to notify a provider of the results of the provider's clean credentialing application and notify as to whether or not the entity is willing to contract with the provider. A clean application means it has no defect, misstatement of facts, or improprieties. *[passed to full committee as amended]*

HB 1605 (Shepard), as amended, authorizes a mental health or chemically dependent patient to have at least 12 additional visits after a utilization review episode instead of at least seven or as many as otherwise recommended by the treatment plan. *[passed to full committee as amended]*

Rep. Pruitt



HB 11 (Pruitt) requires hospitals pre-discharge to screen every newborn infant for hearing loss unless the parent or parents object on religious grounds. An amendment to the bill requires the attending health care professional to refer a

child born in a setting other than a hospital or birthing facility to an appropriate hearing screening provider as listed in the Tennessee directory for such providers, instead of referring the child to the Department of Health. The amendment further requires reporting of all tests to the Department of Health, taking care of the fiscal note. *[passed to full committee as amended]*

HB 2255 (Briley), with an amendment that rewrites it, allows the mortality tables adopted by the National Association of Insurance Commissioners (NAIC) for life insurance contracts to be used by insurers to determine adjusted premiums, present values and reserve values. The tables may be used by insurers on or after January 1 of the year following NAIC adoption unless the commissioner of Commerce rejects the table by issuing a bulletin on the department website and through the mail to all life insurance companies. Further, regarding unfair practices in the insurance business, the amendment makes it an unfair practice to replace a life insurance policy or annuity contract in a manner contrary to rules promulgated by the commissioner. The commissioner shall also have the authority to protect members of the U.S. Armed Forces from dishonest and predatory insurance sales practices by declaring certain practices to be false, misleading, deceptive, or unfair. *[passed to full committee as amended]*

Utilities, Banking and Small Business Subcommittee

The **Utilities, Banking and Small Business Subcommittee** met Tuesday morning before the full committee. There were four bills on calendar. HBs 415 and 2323 were rolled one week and will be heard next week before the full committee meeting. HB 1322 was rolled to the fourth meeting of 2008.

HJR 354 (Coley) urges Congress to pass legislation requiring credit card companies to include on monthly statements the time it will take to pay off the accumulated debt, assuming only the minimum payment is made and no further debt is accumulated. *[passed to full committee]*



Rep. Coley



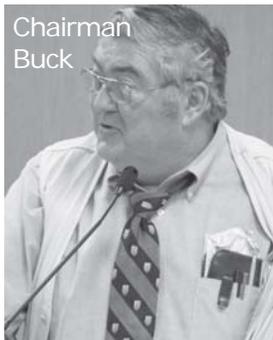
Conservation & Environment

Jeremy Maxwell

The Conservation and Environment Committee met Wednesday to consider twelve bills on calendar. The following bill was **referred to Calendar and Rules as amended**:

HB 657 (Curtiss) deals with the regulations of open burning within 100 feet and 200 feet.

The following bill was **referred to FWM as amended**: **HB 1797** (McCord) enacts the “Tennessee Agricultural Ethanol Production Act of 2007” as a two-year pilot-program to be implemented within the counties of the eastern grand division of the state that are designated as non-attainment areas by the U.S. Environmental Protection Agency.



Chairman
Buck

The following bills were **rolled one week**:

HB 2308 (Odom) authorizes department to institute proceedings to seek civil penalties of up to \$10,000 per day for persons who damage a state park, remove or destroy rare, threatened or endangered species of plants in parks, or

otherwise violate department rules and regulations; proceedings to be instituted through the attorney general; civil penalties paid to be deposited in the state park fund.

HB 1921 (Rinks) requires boat titling in state of Tennessee.

HJR 108 (McCord) adds provisions establishing the right to hunt, fish, and harvest game subject to reasonable rules and regulations; establishes standard for reviewing such rules and regulations.

HB 1804 (Buck) requires water quality enforcement actions be posted on the department’s Web site.

The following bills were **deferred to summer study committee**:

HB 1803 (Buck) prescribes penalties for violations of Water Quality Control Act.

HB 1805 (Buck) authorizes commissioner of environment and conservation to issue stop work orders for activities that violate the Water Quality Control Act.

HB 1806 (Buck) revises issuance and enforcement process for permits under Water Quality Control Act.

HB 1807 (Buck) specifies fees and fines for enforcement actions under Water Quality Control Act.

The following bill was **deferred to 2008**:

HB 1300 (West) exempts certain properties with existing septic tank from obtaining a new subsurface sewage disposal system permit when constructing a residence on such property.

The following bill was **taken off notice**:

HB 2059 (Roach) increases penalty from Class C to Class B misdemeanor for trespassing on property with an ATV; second and subsequent offenses are punishable by mandatory \$250 fine.



Rep. Roach

Wildlife Subcommittee
Wildlife Subcommittee is closed.

Parks and Tourism Sub-committee
Parks Subcommittee is closed.

Environment Subcommittee
The Environment Subcommittee is closed.



Consumer & Employee Affairs

Lucy Wilson

The Employee Affairs Subcommittee had eleven (11) bills on their last committee calendar. Three bills were taken off notice:

HB 1603 by Overbey **HB 684 by Fitzhugh**
HB 1584 by Fitzhugh

Three bills were deferred to January 2008:

HB 1569 by Curtiss **HB 2129 by Fitzhugh**
HB 73 by Turner M

The last five bills were passed to full committee:



Rep. Mumpower

HB 1645 by Mumpower requires sole proprietors and partners in the construction industry to carry workers' compensation insurance on themselves. An amendment makes two exceptions: 1) any person working on his own property for which he receives no compensation; or 2) any sole proprietor or

partner working on a residential dwelling for the homeowner for which the total compensation is less than \$7,000.

HB 877 by Lynn requires people who hire employees, including contract employees, to verify immigration status before the individual starts work. This could be accomplished by getting verification information from the individual and keeping that information for their entire employment and no less than two years. This information can be confirmed by using the federal Department of Homeland Security pilot program. The bill goes on to identify consequences for violating the statute.

HB 2128 by Fitzhugh removes references to the pre-injury employer returning an employee to work in maximum permanent partial disability provision and refers instead to



Rep. Fitzhugh

the employee acquiring certain employment.

Under this bill, the one and one half times multiplier would apply to situations where an injured employee acquires any work at a wage equal to or greater than the wage the employee was receiving at the time of the injury, whether the employment is with the pre-injury employer or a new employer. This bill would not affect an employee's right to seek reconsideration of permanent partial disability benefits when the injured employee returns to work but cannot continue in employment for reasons that are not the injured employee's fault.

HB 1518 by Hackworth specifies that any approved healthcare provider has no liability for releasing records regarding a patient whose treatment is covered by workers' compensation when the records are requested by an employer, insurer, employee, or employee's attorney.

The amendment prohibits the use of differing rates for reimbursement of physical or occupational therapy services in the medical fee schedule based on whether the services are performed at an independently-owned facility or at a physician-owned facility. Provisions are made for differing reimbursement rates if over utilization of therapy services are documented by the utilization review program and demonstrate that a bifurcated reimbursement system will correct the over-utilization.

HB 1818 by Hackworth requires the Commissioner of Labor and Workforce Development, or the commissioner's designee, to order appropriate workers' compensation benefits to be paid on an equal basis by the insurance carrier and the self-insured employer in any case where there is a dispute as to which entity is responsible for providing workers' compensation benefits. Two amendments follow the bill. The first amendment extends the Joint Committee on Workers' Compensation for an additional five (5) years.



Consumer & Employee Affairs

Lucy Wilson

The second requires two carriers to equally pay the loss adjustment expenses associated with a workers' compensation claim when there is a dispute over which carrier is responsible. When the determination is made, the responsible party will reimburse the non-responsible party.

The House Consumer & Employee Affairs Committee passed all but two of their bills. **HB 1568** by Curtiss was rolled to the first calendar in 2008. **HB 1479** by Towns was rolled one week.

HB 1822 by **Buck** requires any workers' compensation specialist who is engaged in determining whether to order the payment of temporary disability or medical benefits for an injured employee to provide, upon request, copies of all information available to the specialist to the employee, the employer or insurer, or any attorney representing either of the parties. This bill would not apply to information or documents that are provided to a specialist during the benefit review conference procedure. An amendment passed that would require the individual requesting the information to pay for copying the documents. This bill passed to Finance, Ways and Means.

HB 454 by **Hackworth** limits the ability to negotiate medical fees that are lower than the fee schedule to circumstances where provider and employer, trust, pool, or insurer directly negotiate an agreement to do so that meets certain requirements. An amendment passed that makes the bill. It stipulates:

1) contracts between provider and a workers' comp contracting agent must disclose clearly any ability for the carrier to lease, sell, and/or assign a providers name and or workers' comp discount to other carriers. This ensures providers are aware that their names and discounts are being sold to others;

2) an explanation of benefits (EOB) must clearly identify the entity that has the direct contract with the physician so providers can look at the EOB and know how an entity accesses a discount in which provider may not have that direct contact;

3) that same information be on the insurer's website; and

4) if a physician or provider requests a copy of the contract in which entity is taking a discount, that entity has to provide a copy within thirty (30) days that shows they have the ability to access the workers' comp discount.

The bill passed to Finance, Ways and Means as amended.

HB 1081 by **Turner M** changes the maximum total benefit for certain injuries under workers' compensation. Present law sets the maximum total benefit for injuries occurring on or after July 1, 1992, at 400 weeks times the maximum weekly benefit, except in instances of permanent total disability. This bill closes the period to which that maximum applies, making it the maximum total benefit for injuries occurring on or after July 1, 1992 and before July 1, 2007, except in instances of permanent disability. This bill establishes a different maximum total benefit for injuries occurring on or after

July 1, 2007. For an injury after this date, the maximum total benefit under this bill is 400 times 100 percent of the state's average weekly wage, except in instances of temporary total disability and permanent total disability. This bill passed to Finance, Ways and Means.



HB 278 by **Mumpower** corrects across-reference to the definition section in the provision limiting the maximum total benefit. This bill passed to Calendar and Rules.



Consumer & Employee Affairs

Lucy Wilson

HB 1813 by McDonald continues the competitive pricing system [“loss costs”] for the workers’ compensation insurance market in TN for the future – with no repeal provision or sunset provision. This bill passed to Calendar and Rules.

HB 2307 by Turner M This bill clarifies that in all cases of death of an employee covered by workers’ compensation where the employee leaves no dependents, the maximum benefit is \$20,000 payable the deceased employee’s estate plus medical, hospital, and funeral benefits.

This bill also changes present law by removing the provision that requires employers to pay the second injury fund assessment in cases where death results from the work related injury or occupational disease.

This bill changes present law by authorizing the department to approve any attorney’s fee if the fee does not exceed 20 percent of the award to the injured worker, or 20 percent of the first 400 weeks of benefits in cases of permanent and total disability.

This bill passed to Calendar and Rules.

The **Consumer Affairs Subcommittee** and the **Employee Affairs Subcommittee** are closed and will open only at the call of the Chair.



Education

Pam Mason

The House Education Committee met on Wednesday to consider its calendar. Action follows.

Referred to Calendar & Rules:

HB 1772 – (Jones, U.) a parent or legal guardian must attend at least one parent-teacher conference or their child’s final report card will not be released. The report card may be released when the parent or guardian comes to the school and requests the card. It is also required that the parent or guardian discuss any pertinent matters of concern about the child’s education.

HB 81 – (Cooper) for students who do not pass the TCAP tests, the certificate of attendance is abolished. In its place would be three types of high school diploma:



1. a diploma with a minimum designation – meet the attendance requirements, do not pass the TCAP, and do not meet the credit hour requirements for graduation;
2. a diploma with a satisfactory designation - meet the credit hour requirements for graduation but do not pass the TCAP tests; and
3. a diploma with a proficient designation - meet the credit hour requirements and pass the TCAP tests.

Referred to Calendar & Rules, if amended:

HB 479 – (H. Brooks) amendment rewrites the bill to require each LEA adopt procedures regarding the transportation of students. Included in these procedures are the exiting of a school bus at a location other than the student’s destination and that a parent must provide written permission for a child to exit a school bus anywhere than the regular bus stop at the end of the school day. Any school bus driver is prohibited from allowing a student to exit in violation of



the adopted LEA procedures. LEAs are allowed to adopt procedures regarding unruly students including the ejection of such a student when necessary for the safety of the other students. The fitness of a school bus driver who allows a student to exit a bus in violation of LEA procedures is to be reviewed by the director of schools.

Referred to Finance, Ways & Means, if amended:

HB 1302 – (West) amendment rewrites the bill and applies to Davidson County only. Any tenured teacher who receives notification of dismissal may demand a hearing within 30 days of receipt of such notice. The board of education shall select an impartial hearing officer for such a hearing. The teacher may be represented by counsel, may call and subpoena witnesses, examine witnesses, and require all testimony be given under oath. The hearing officer must deliver to the teacher and the board within ten days of the close of the hearing the findings and decisions related to the charges. The teacher may appeal the decision and the director of schools may also appeal. Action by the board may be appealed to the chancery court within twenty working days of a decision by any party. The review of the court shall be de novo on the record of the hearing held by the hearing officer and reviewed by the board.

HB 761 – (Matheny) as amended, expands tuition exemptions for children and spouses of veterans who receive a Purple Heart.

HB 905 – (Hill) schools are required to notify parents of school clubs and organizations and the purpose of such. As amended, parents are responsible for returning written permission to a school for their child’s participation in a club.

Failed:

HB 2138 – (Pruitt)



Education

Pam Mason

Deferred 1 week:

HB 477 – (Winningham)

HB 950 – (Winningham)

HB 1008 – (Brown)

HB 1467 – (Fitzhugh)

HB 483 – (Coley)

HB 374 – (Briley)

HB 161 – (Dunn)

HB 336 – (Hackworth)

HB 338 – (Hackworth)

HB 1943 – (Winningham)

Taken off Notice:

HB 1251 – (Odom)

Higher Ed Subcommittee

The Higher Ed Subcommittee met on Wednesday and considered its calendar. Action follows.

Recommended to Full Committee:

HB 1360 – (Kernell) requires completion of eight (8) courses in international studies for graduation from a public college or university.

Recommended to Full Committee, if amended:

HB 1423 – (Harwell) establishes a foster child scholarship for children in foster care to attend school. As amended, this measure applies to public schools only.

Taken off Notice:

HB 450 – (Gresham)

Lottery Scholarship Bills Taken off Notice:

HB 253 – (Moore)

HB 2221 – (Maddox)

HB 1010 – (Brown)

HB 2074 – (Maddox)

Lottery Scholarship bills on calendar were sent to Full Committee for the purpose of fiscal consideration, possible combination with other bills of like subject, and/or inclusion into the Lottery Omnibus bill.

The Higher Ed Subcommittee completed its work and closed, subject to the call of the chairman.

K-12 Subcommittee

The K-12 Subcommittee met on Tuesday and completed its calendar. Action follows.

Referred to Full Committee:

HB 1046 – (Towns) deletes requirement of passage of assessment tests to graduate from high school and substitutes the requirement that students successfully pass all 12 grades of school.

HB 651 – (Winningham) allows teachers to participate in the 401K plans available to state employees and higher education employees.

HB 2293 – (Winningham) reduces from 20 to 15 consecutive days the time a substitute teacher without a teacher's certificate or permit may fill in for a regular teacher.

HB 346 – (Winningham) changes the date for filing applications establishing a charter school or renewing an existing charter school from October 1 to September 1.

HB 1790 – (Jones, U.) requires funding of pilot pre-kindergarten programs at same level as those implemented under the "Voluntary Pre-K for Tennessee Act of 2005."

HB 694 – (Winningham) abolishes the BEP review committee.

HB 239 – (Overbey) increases the state share of BEP funds for the instructional positions component from 65 percent to 75 percent.

HB 2067 – (Maddox) all monies appropriated by the General Assembly or otherwise allocated for classroom Internet connectivity and/or technology access are to be paid by the state directly to the LEA.



Chairman
Winningham



Education

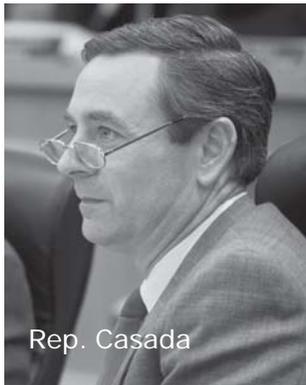
HB 2294 – (Winningham) requires the annual BEP review committee report include an analysis of disparity in benefits and other compensation among the LEAs.

HB 2125 – (Winningham) requires LEAs to track performance of alternative schools and report to the department of education. Also requires LEAs to develop transition plans for students moving between alternative and regular schools.

Recommended to Full Committee, if amended:

HB 1186 – (Jones, S) expands special education services.

HB 2260 – (Litz) adds bomb, dynamite, explosive and chemical weapon threats to zero tolerance offenses.



HB 1084 – (Casada) creates in the state treasury a “reading diagnostic and intervention fund” for the purpose of providing two-year grants to systems for reading programs.

HB 1531 – (DeBerry, L.) adds to the state report card high school graduation rates subdivided by gender and race.

HB 1991 – (McCord) requires a contractor with an LEA or child care program to obtain a criminal record history check by the TBI of their employees.

HB 1972 – (Armstrong) requires each school in the state to have at least one registered nurse attached to the school as a public nurse.

HB 665 – (Baird) sets up guidelines for any student entering a public school after a court ordered inpatient mental health treatment program.



HB 1531 – (DeBerry, L.) requires the office of early learning to collect data on successful completion of each grade from Pre-K through twelve.

HB 343 – (Winningham) revisions to the BEP as recommended by the BEP review committee shall be submitted to the senate and house education committees for review and recommendation, and may then be subject to amendment.

HB 1950 – (Jones, S.) enacts the “Schools Against Violence in Education Act.”

Referred to the Select Oversight Committee on Education:

HB 344 – (Winningham)

HB 1229 – (Kelsey)

Deferred to March, 2008:

HB 2176 – (Winningham)

HB 948 – (Winningham)

Failed:

HB 2048 – (Campfield)

Taken off notice:

HB 564 – (Harwell)

HB 944 – (Hardaway)

HB 1977 – (Harwell)

HB 208 – (Hawk)

HB 328 – (Tidwell)

HB 569 – (McCormick)

HB 730 – (Hood)

HB 731 – (Hood)

HB 732 – (Hood)

The K-12 Subcommittee completed its work and is closed.



Finance, Ways & Means

Julie Travis & Patrick Boggs

Week of April 30th, 2007

Chairman Fitzhugh



The Full Committee

The House Finance, Ways, and Means committee met on Tuesday, May 1st to take action on twenty-one bills. Next week in full committee, representatives of higher education institutions will be present for the first few minutes of the committee to make presentations and answer questions regarding security at their institutions.

The following bills were referred to Calendar and Rules:

HB 1383 (S. Jones) – This bill, as rewritten by the committee, starts a permissive pilot project in eight counties: Shelby, Davidson, Knox, Hamilton, Unicoi, Tipton, Hamblen, and Anderson counties, to allow the county clerks in these respective counties to issue birth certificates. County clerks may charge an extra fee to cover their costs.

HB 89 (Harmon) – This bill deletes Grundy County's and Union County's exemption on the list of counties where a clerk other than the Clerk of the General Sessions Court must serve as Juvenile Court Clerk, if that other court had jurisdiction over such matters prior to them being transferred to General Sessions Court.



Rep. Harmon

HB 1195 (Harmon) – This legislation authorizes the TRICOR program to provide work training to juvenile offenders at DCS facilities.

HB 180 (Cooper) – This bill, as rewritten by the Finance Committee, requires clerks of both local and state courts in

Shelby County to offer a payment plan to a driver facing license suspension before the person's license is suspended due to nonpayment of fines and/or fees.

HB 1407 (Cooper) – This bill extends the \$400 cap on driver license reinstatement fees that is set to expire on July 1, 2008.

HB 2223 (Maddox) – This names a bridge on S.R. 118 over the North Fork of the Obion River in Weakley County as the "Herman Neal Walker Memorial Bridge." Signage will be paid for out of the highway fund.

HB 1849 (Miller) – This bill, as rewritten in committee, adds language to the section of the code dealing with insurance for public buildings and the procedure for obtaining policies. The new language requires the treasurer, with the approval of the Board of Claims, to consider proposals from admitted carriers and non-admitted carriers of surplus lines to allow them to obtain insurance on these buildings. Non-admitted carriers would have to meet certain requirements and would only be allowed to submit a proposal if at least two admitted carriers have declined to submit a proposal for coverage.

HB 808 (Odom) – This removes language specifying that additional compensation is due to civil service employees who are assigned to perform duties of a higher level classification for a period in excess of ninety days only subject to budgetary limitations. The Finance Office received a letter from the administration acknowledging that funding for this bill will be included in the Administration Amendment to the Budget.

HB 2352 (Odom) – This increases the allocation of litigation tax revenue to the Criminal Injuries Compensation Fund from 15.8471% to 24.0020%, and lowers the allocation to the general fund from 40.3051% to 32.1502%.

HB 1871 (Sargent) – This bill allows juvenile courts to establish and operate drug treatment programs. To fund the oversight of the treatment, a \$75 fee will be assessed on certain drug offenses.



Finance, Ways & Means

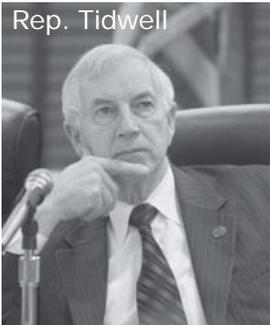
Julie Travis & Patrick Boggs

HB 592 (Fincher) – This bill adds recognition of fraudulent intent to the civil prosecution of worthless checks as it exists in criminal prosecution of such checks.

HB 2314 (Hood) – This bill, the administration’s Jessica’s Law proposal, increases the penalty for rape of a child from the current Class A felony offense with a sentencing range of fifteen to sixty years to a minimum of twenty-five years. Once released, offenders shall remain under community supervision for the remainder of their natural life and may never petition for release from that supervision.

HB 867 (Mumpower) – This enacts the “Johnia Berry Act of 2007.” It requires a DNA sample to be taken for analysis from a person arrested on or after January 1, 2008 for a violent felony. If the charge for which the sample was taken is dismissed or the defendant is acquitted, then the TBI shall destroy the sample and all records.

HB 2229 (Tidwell) – This increases to \$30 per day the amount that district soil conservation supervisors receive for board meeting attendance. It authorizes these districts to enter into agreements to improve traditional areas of farm production and to encourage diversification and innovative farming operations.



Rep. Tidwell

HB 1414 (Watson) – This bill allows the Bradley County forensic laboratory to assess a drug testing fee of \$20 whenever a drug or alcohol blood test is performed.

Deferred for one week in full committee:

- HB 1809 (Pruitt)
- HB 2139 (Pruitt)
- HB 99 (Winningham) *as amended by FWM Committee Amdt No. 1*
- HB 2090 (Maddox) *as amended by FWM Committee Amdt No. 1*
- HB 403 (S. Jones)

Bills taken off-notice:

- HB 460 (Fitzhugh)

The Budget Subcommittee

The Budget Subcommittee of the House Finance, Ways, and Means Committee met on Wednesday, April, 2006, with forty-four bills and resolutions on its calendar and addendum.

Subcommittee actions for these bills are as follows:

Deferred for one week:

- HB 2354 (Odom)
- SJR 91 (Sen. R. Finney, Rep. Hensley) *as amended by BSA #1*
- HB 2206 (J. DeBerry)
- HB 1439 (J. DeBerry)
- HB 1434 (J. DeBerry)
- HB 1141 (Buck)
- HB 1146 (Buck)
- HB 114 (Shepard)
- HB 1230 (Kelsey)
- HB 729 (Hood)
- HB 1004 (Curtiss)

Deferred for two weeks:

- HB 615 (M. Turner)
- HJR 155 (Brown)
- HB 1503 (Vaughn)
- HB 1826 (Bone)

Behind the Budget:

- HB 622 (M. Turner)
- HB 2213 (Pinion)
- HB 1011 (Brown)
- HB 1327 (Briley)
- HB 1328 (Briley)
- HB 1378 (Briley)
- HB 1411 (Watson)
- HB 1163 (Sontany)
- HB 2061 (Rowe) *as amended by BSA #1*
- HB 842 (Pruitt)



Finance, Ways & Means

Julie Travis & Patrick Boggs

HB 1204 (Pinion)
HB 1575 (Miller)
HB 953 (Maggart)
HB 2081 (Maddox)
HB 452 (C. Cobb) *as amended by BSA #1*
HB 1843 (Borchert)

Bills failed:

HB 196 (Hensley)

Referred to full committee:

HB 63 (M. Turner) – This bill, as rewritten in the committee, revises requirements for licensing home care organizations that provide prescribed wheeled mobility devices. TennCare is required to reimburse for wheeled mobility devices at a level equal to the levels allowed under the Medicare program.

HB 2253 (Pinion) – This administration bill authorizes the Department of Transportation to initiate and enter into fifteen design-build contracts per year if the cost is less than \$1,000,000, and up to five of more than that amount. After three projects are completed, a report will be presented to the General Assembly's House and Senate Transportation Committees on the effectiveness of the program.

HB 2310 (Odom) – This administration bill authorizes the Department of Environment & Conservation to increase the caps on certain fees, and the commissioner may bring actions in court.

HB 2236 (Brown) – This administration bill replaces the optional high-school exit exam with three assessment exams. The exams will be given in the eighth, tenth, and eleventh grades. The testing is to provide diagnostic data to aid in increasing graduation rates and improving readiness for postsecondary education. The Commissioner of Education shall approve of the exam selections.

HB 312 (Briley) – This bill increases the amounts charged for filing notices with the clerk of the Supreme Court, and limits any future increases for filing with criminal appeals courts.

HJR 243 (Watson) – This resolution names a bridge spanning the Hiwassee River on S.R. 58 in Meigs County the "Cherokee Memorial Bridge." Signage shall be paid for out of the highway fund.

HJR 244 (Watson) – This resolution names a bridge spanning U.S. 64 on S.R. 68 in Polk County the "Veterans Memorial Bridge." Signage shall be paid for out of the highway fund.

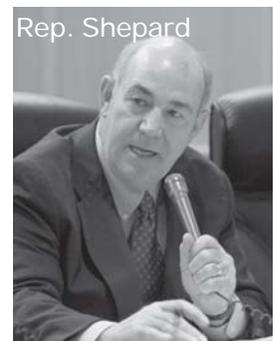
HB 775 (Vaughn) – This requires that written notice of the method of appeal be given to a claimant upon final denial of a claim for unemployment compensation.

HB 1557 (Shepard) – This enacts the "Revised Uniform Anatomical Gift Act," by revising procedures within the current Uniform Anatomical Gift Act. It retains the opt-in consent, while strengthening the rights of donors and expanding the list of the deceased's survivors who can consent to a donation.

HB 1752 (U. Jones) – This bill removes the requirement that an aquarium facility must be enclosed to qualify as a premier type tourist resort for purposes of on-premises consumption of alcoholic beverages.

HB 2320 (Curtiss) – This administration bill exempts prepaid limited health service organizations that subcontract with TennCare HMOs from the health maintenance organization tax.

HB 2267 (Shepard) – This administration bill, as rewritten in the subcommittee, reschedules Gamma Hydroxybutyric Acid (GHB) and its salts, isomers, and salts of isomers to coincide with the federal controlled substance schedule. It adds numerous opiates, depressants, stimulants, and narcotics to Schedules I through V of the controlled substances schedule, thereby making it a criminal offense to manufacture, deliver, sell, or possess with the intent to manufacture, deliver, or sell the drugs.





Government Operations

Kristina Ryan

Chairman Kernell



The Government Operations Committee convened on Wednesday, May 02, 2007 to complete their calendar. The majority of the bills on the calendar were sunset bills and the remaining bills were for review for other standing committees. **HB 725** by Representative

Cooper was taken off notice.

The following bills were in committee for review purposes and were passed to the appropriate standing committees:

HB 2172 by Representative Fitzhugh – State and Local Government

HB 795 by Representative Campfield – Education

HB 1268 by Representative Lynn – Health and Human Resources - no recommendation



Sunset Bills

HB 510 by Kernell - East Community Resource Agency – June 30, 2011. An amendment placed on the bill clarified that the extension East Tennessee Community Service Agency would be June 30, 2011.

HB 514 by Kernell – Hamilton County Community Resource Agency – June 30, 2001. The amendment adopted would remove the authorization for the Commissioner of Finance and Administration to establish the community service agency serving Chattanooga and Hamilton County.

HB 542 by Kernell – Knox County Community Service Agency – June 30, 2011. The amendment removes the present statute that allows for the authority for the establishment of the community service agency for Knoxville and Knox County.

HB 2028 by Kernell – Sports Festival, Inc. – June 30, 2011. The amendment adopted in committee abolishes the Sports Festival, Inc.

HB 2029 by Kernell – Sports Festival, Inc. Board of Directors – June 30, 2011. An amendment placed on the bill abolishes the Sports Festival, Inc. Board of Directors.

HB 518 by Kernell – Judicial Evaluation Commission – June 30, 2011.

HB 544 by Kernell – Judicial Selection Commission – June 30, 2011.

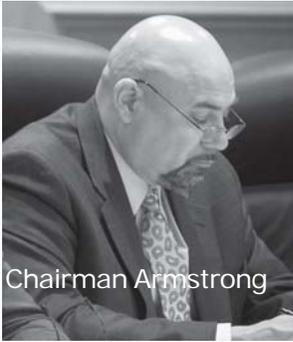
HB 2013 by Kernell – Department of Transportation – June 30, 2010. An amendment placed on the bill extends the sunset of this entity until June 30, 2011.





Health & Human Resources

Judy Narramore



Chairman Armstrong

Full Committee

The **Health & Human Resources Committee** met Tuesday, May 1, 2007, with 39 bills on calendar, referring 19.

Ten bills were *referred to Calendar & Rules*:

HB 1197 (Pinion) as amended exempts radiology practitioner assistants who were practicing in Tennessee on or before December 31, 2006, from having to meet the radiologist assistant certification requirements if proof of such practice is submitted along with the application and certification fee on or before December 31, 2007.

HB 2087 (Maddox) as amended revises existing law related to personal support services providers that assist certain clients with medications under specified conditions. The amendment requires a person providing personal support services to clients living in their own home or private residence who assists clients with medications to receive and document training in medication assistance performed by or under the supervision of a registered nurse. The medication assistance that can be provided is limited to opening medication packages and giving medication reminders; giving any form of medication is prohibited.



Rep. Maddox

HB 2089 (Maddox) as amended clarifies the existing law licensure exemption provision for a person providing personal support services to only one person with mental illness, serious emotional disturbance or developmental disability. The amendment limits the licensure exemption to a person providing personal care to solely one person

and not holding him/herself out to the public as being in the business of providing personal support services for compensation.

HB 1958 (Armstrong) as amended requires the Commissioner of Finance & Administration to report to the House and Senate health committees by January 15, 2008, and annually thereafter, on indicators of equity in the behavioral health services delivery system, including the extent to which special services/programs and psychiatric and medical services of the same level are available on an equitable basis throughout the state, and the extent to which rates of service utilization by recipients are equitable throughout the state.

HB 1426 (J. DeBerry) as amended requires that recipients of mental health services be given an opportunity to approve and sign a release that authorizes the mental health facility or program to release certain information about the recipient to specified individuals. The amendment gives the service recipient the authority to alter or withdraw the release of information, including type of information and individuals to whom information may be provided, permitted by the bill as introduced.

HB 1056 (L. DeBerry) as amended establishes requirements for physicians performing “office-based surgery” and gives the Board of Medical Examiners and Board of Osteopathic Examination the duty and responsibility to regulate the practice of office-based surgery.

SJR 0142 (Rep. Hensley) urges Congress and specified federal agencies to limit, ban, or otherwise impose strict standards on direct-to-consumer advertising of prescription drugs by pharmaceutical companies.



Rep. Hensley

HB 2273 (Odom) increases from three to five years the period for which the state can recover TennCare expenditures prior to the date of application for benefits; authorizes the Commissioner of Finance and Administration and the Director of the Bureau of TennCare to require certain information identifying persons covered by third parties for medical services; and, deletes existing law that holds TennCare responsible for the cost of other insurers providing TennCare with information about enrollees.



Health & Human Resources

Judy Narramore

HB 2284 (Odom) as amended authorizes the sharing of laboratory health records by electronic means.

HB 2242 (Shepard, Odom) as amended deletes existing law related to procedures for adopting operating guidelines for the Division of Mental Retardation Services (DMRS) and establishes new procedures to be followed before adoption of such operating guidelines. The Division of Mental Retardation would provide the Tennessee Community Organizations and The Arc of Tennessee with a copy of the proposed operating guidelines and would post such information on its website. DMRS would hold a public meeting pursuant to petitions or responses received as specified in the amendment.



Rep. Shepard

Nine bills were *referred to Finance, Ways & Means*:

HB 1901 (Rowe) as amended requires that the deduction from a person's total income be increased from \$40 to \$50 a month as a personal needs allowance for nursing home patients. The amendment exempts persons who receive only federal supplemental security income from the provisions of the bill.

HB 2126 (Fitzhugh) as amended requires the EMS Board to promulgate rules to require inspection of air ambulance medical equipment and supplies and to require issuing of a healthcare inspection verification sticker.

HB 2332 (Curtiss, Odom) as amended authorizes a person licensed as a manicurist, aesthetician, or natural hair stylist to become licensed as a manicuring, aesthetics, or natural hair styling instructor without holding a cosmetology license.

HB 1326 (Briley) enacts the "Newborn Umbilical Cord Blood Initiative Act of 2007." This Act creates a 15-member Tennessee Commission for the Newborn Umbilical Cord Blood Initiative that will establish a

network of postnatal tissue and fluid banks in partnership with public and private entities for the purpose of collecting and storing postnatal tissue and fluid and, will develop a program to educate pregnant patients with respect to the banking of postnatal tissue and fluid.

HB 1971 (Armstrong) as amended establishes the Tennessee Alzheimer's Disease Task Force that will consist of 19 volunteer members. The Task Force will assess the current and future impact of Alzheimer's disease on Tennesseans; examine the existing resources addressing the needs of persons with Alzheimer's, their families, and caregivers; and develop a strategy to mobilize a state response. The amendment sunsets the Task Force on February 1, 2009.

HJR 0346 (L. DeBerry) creates the Asthma Strategic Planning Joint Study Committee to study the current status of asthma in Tennessee. The Committee will report its findings and cease to exist no later than December 10, 2007.

HR 0074 (L. DeBerry) creates the Asthma Strategic Planning Study Committee to study the current status of asthma in Tennessee. The Committee will report its findings and cease to exist no later than December 10, 2007.

HB 1532 (L. DeBerry) as amended requires the Department of Health to designate up to 10 adult day care centers or senior centers within the state as model programs worthy of emulation with respect to specified activities. Subject to the availability of funding, state grants will be awarded to the model programs selected.



Rep. DeBerry, Rep. Odom



Health & Human Resources

Judy Narramore

HB 2261 (Odom) creates a Class E felony for a TennCare enrollee to knowingly and willfully fail to disclose to a health care provider that the enrollee has obtained the same or similar prescription for a controlled substance from another provider within the past 30 days and used TennCare to pay for either the clinical visit or controlled substances.

In other committee action, **HB 0240 (Overbey)** (covenants not to compete) was being debated as the committee adjourned; HHR Committee Amendment #5 is pending. **HB 0773 (Vaughn)** was rolled one week at the request of the sponsor. **HB 1550 (Hackworth)** was rolled one week at the request of the sponsor. **Rep. Briley** took **HB 1330** off notice. **Rep. J. DeBerry** rolled **HB 2182** one week. After the committee adopted the subcommittee amendment to **HB 2298 (S. Jones)** that rewrites the bill (“cost to charge ratio”), Rep. Cobb requested the sponsor roll the bill one week. **Rep. Odom** rolled **HB 2351** to the last calendar. As committee time expired, the remaining bills on calendar were rolled one week; **HBs 1960, 1976, 0486, 1669, 0812, 0806, 1885, 0283, 0233, 0241, 0301, 1618, and 0964.**

Public Health & Family Assistance Subcommittee

The **final meeting** of 2007 for the **Public Health & Family Assistance Subcommittee** was held immediately preceding the full committee on Tuesday, May 1st. Three bills were on the final calendar. **HB 1892 (J. DeBerry)** that enacts the “Tennessee Nurse Home Visitor Program Act” to establish a nurse home visitor program to provide regular, in-home, visiting nurse services to low-income, first-time mothers during their pregnancies and through their children’s second birthday was referred to full committee. **Rep. Kernell** requested to defer **HB 1370** (“Community Choices Act of 2007”) to January 2008. **HB 2146 (Fincher)** (“Tennessee Pregnant Women Support Act”) failed for lack of a motion.

Professional Occupations Subcommittee

The **final meeting** of 2007 for the **Professional Occupations Subcommittee** was held Wednesday, May 2, 2007. Five bills were on the final calendar, two were referred to full committee. **HB 1306 (West)** that prohibits physicians from performing elective cosmetic surgery on any patient without



the informed consent of the patient, requires the Board of Medical Examiners to develop a list of common risks of the five most frequently performed cosmetic procedures, and requires a physician to have the patient review and sign such applicable list prior to their elective cosmetic surgery was referred to full committee 5-3 on a roll call vote. **Rep. West** requested to roll **HB 1310** to the third subcommittee meeting of 2008. **HB 2329 (Odom)** as amended that authorizes the Department of Children’s Services to provide training for unlicensed personnel who assist children and youth with the self-administration of medication in group home settings, exempts such unlicensed personnel from nursing licensure provisions of current law, and requires that such unlicensed persons must have received and be able to document six hours of training in medication administration from a registered nurse was referred to full committee. **HBs 0271 (Mumpower)** and **1778 (U. Jones)** were taken off notice at the request of the sponsors.

Health Care Facilities Subcommittee

The **Health Care Facilities Subcommittee** is closed subject to the call of the Chair.



Judiciary

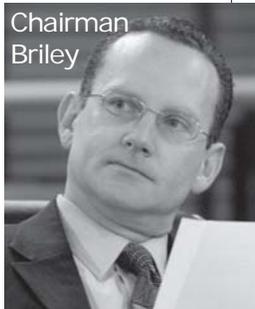
Jamie Wyatt

The Full Judiciary Committee

The Full Judiciary Committee considered twenty-two bills. HB 1881 by Rep. Overbey was rolled to the first calendar of 2008. HB 2086 and HB 2096 by Rep. Maddox were rolled to the second calendar of 2008.

The following bills were approved for passage and sent to the Finance, Ways and Means Committee:

- **HB 422 by Rep. Briley**, as amended, provides that a person commits an offense who knowingly ties, tethers, or restrains a dog in a manner that results in the dog suffering bodily injury as defined by the law.
- **HB 1425 by Rep. J. DeBerry**, as amended, authorizes the Division of General Sessions Court of Shelby County with environmental jurisdiction to employ a referee to assist in the hearing of cases. This appointment is subject to approval by a majority vote of the legislative body of the county. Amendment number one ceases the authorization to appoint a referee on December 1, 2010, unless a majority vote of the legislative body of the county reauthorizes it no later than September 1, 2010. The amendment also has a provision that requires this appointment to be revisited every four years after this point unless reauthorized by a majority vote of the legislative body.



Chairman Briley



Rep. DeBerry

- **HB 1834 by Rep. J. DeBerry** defines crime of force or violence as one of the following offenses: second degree murder, criminal attempt of first degree murder, attempted second degree murder, especially aggravated and aggravated robbery, robbery, and carjacking. The bill increases by one

classification the punishment for crime of force committed in concert with two or more persons. It requires a presumptive sentence to be the maximum within the range for a Class A felony committed in concert with two or more persons.

- **HB 1877 by Rep. Towns**, as amended, creates a new aggravated criminal littering crime punishable as a Class A misdemeanor for the 1st offense. Elevates it to a Class E felony for the second offense with an amount exceeding 1,000 lbs. or 200 cubic feet or for a third offense with an amount exceeding 10 lbs. or 15 cubic feet. It gives environmental court exclusive jurisdiction over littering crimes. It lowers criminal littering from a Class A misdemeanor to a Class C misdemeanor. It offers a reward of \$50.00 to any person who reports information to police that leads to the apprehension and conviction of a person for littering. It authorizes all state and local law enforcement agencies, officers, and officials, and any enforcement agency, officer, or any official of any state or local commission or authority to enforce the prohibitions against littering and appoint a litter enforcement officer.
- **HB 2162 by Rep. Briley**, as amended, creates a special committee to study the administration of the death penalty in Tennessee. The committee is required to report its findings and recommendations to the governor and the general assembly within one year of the date on which all members of the committee have been appointed.
- **HB 2225 by Rep. Maddox** authorizes members of the Tennessee Claims Commission and its staff access to confidential records and reports of child sexual abuse for the purpose of determining if a claim filed with the commission constitutes a compensable offense under the Criminal Injuries Compensation Act.



Judiciary

Jamie Wyatt

The following bills were approved for passage and sent to Calendar and Rules:

- **HB 1354 by Rep. S. Jones**, as amended, authorizes eligible persons to enter upon private property of another for the purpose of accessing a cemetery or gravesite. The eligible person must notify the landowner in writing prior to accessing the cemetery and enter at reasonable times in a reasonable manner. They may exercise this purpose for visiting a grave, maintaining a gravesite, burying human remains in a cemetery plot by persons granted rights of burial to such cemetery plot and conduct genealogical research. They are liable to the owner for any damage occurring from their ingress to or egress from the cemetery. An eligible person is defined as a family member, descendant and close friend of deceased buried in such cemetery and individuals engaging in genealogical research. For a friend of a deceased person or of the family or genealogical researcher to exercise this right, such persons must be designated in writing as such by a member of the family.
- **HB 1424 by Rep. J. DeBerry**, as amended, authorizes local governments to enjoin the continuation of public nuisances without notice or a hearing if a petition is made and supported by an affidavit that there is probable cause to believe that such public nuisance exists. Also, a hearing shall be conducted within five days following the execution of the writ closing and padlocking the premises, or the writ expires.

Notice of the hearing must be given to the defendant.

- **HB 1993 by Rep. Overbey**, as amended, is the medical malpractice tort reform bill. The primary points concern the notice requirements when a medical malpractice claim is filed, the requirement of filing a certificate of good faith,



Rep. Overbey

and the elimination of the antiquated locality rule, which places limits on the testimony of an expert witness. The bill requires any person or agent of such person asserting a claim for medical malpractice to give written notice of such claim to each health care provider against whom such claim is being made at least 60 days before the filing of a complaint. Attached to this written notice must be a list of all health care providers to receive notice. Notice shall consist of actual written notice or notice by certified mail return receipt requested to the health care provider or authorized agent of such. The medical malpractice pleadings must state whether each party has complied with these provisions and require evidence of compliance. If notice is given as required, the statute of limitations will be tolled and repose to and including a period of ninety days. There will be a sharing of the claimant's medical records from any party within thirty days from the date of receipt of a written request for records. As for the requirements regarding the filing of a certificate of good faith, within ninety days after filing a medical malpractice complaint requiring expert testimony, a plaintiff or his counsel is required to file such certificate stating that the he has consulted with one or more experts who have provided a written statement confirming they are competent to express opinions under T.C.A. § 29-26-115, and they believe based on the facts concerning care of the plaintiff that there is a good faith basis to maintain the action, or the plaintiff has consulted with one or more experts who have provided a written statement confirming they are competent, an believe there are facts material to the resolution of the case that cannot be reasonably ascertained from the information available to the plaintiff and that despite this, there is a good faith basis for maintaining the action. The defendant in such a case has a duty to, within thirty days after alleging in an answer or an amended answer that a non-party is at fault for the injuries or



Judiciary

Jamie Wyatt

death of a plaintiff, and expert testimony is required to prove fault, file a Certificate of Good Faith stating similar statements as that required by plaintiff such as defendant has consulted with one or more experts, who have provided a statement confirming they are competent under the referenced statute and believe based on the information reviewed concerning treatment, there is a good faith basis to allege such fault or defendant has consulted with one of more experts who've provided a statement saying they are competent to express an opinion and believe there are facts material to the resolution of the case that cannot be reasonably ascertained from the info available to the defendant and despite that there is a good faith basis for alleging such fault. There are consequences for failing to file a Certificate of Good Faith. Plaintiff's failure to do so requires the dismissal of the action with prejudice. A defendant who fails to comply and alleges fault of a nonparty, make allegations subject to being stricken with prejudice unless the plaintiff consents to waiving compliance. The last point deals with the locality rule. The bill provides that the acceptable standard of care relative to expert testimony provided by the plaintiff will be the recognized standard of care in the profession in the state of Tennessee. However, the defendant is not precluded from attempting to prove that the standard of acceptable professional practice applicable to the defendant is different.

- **HJR 370 by Rep. Odom** confirms the reappointment of Nancy Carol Miller-Herron as the Western Division Commissioner for the Tennessee Claims Commission.

Rolled 1 week:

HB 132 by Rep. Bell
HB 1334 by Rep. Briley
HB 1365 by Rep. Kernell
HB 1477 by Rep. Sontany
HB 1598 by Rep. K. Brooks
HB 1835 by Rep. J. DeBerry
HB 2154 by Rep. Briley
HB 2184 by Rep. Nicely
HB 2311 by Rep. Briley

Civil Practice & Procedure Subcommittee

The Civil Practice & Procedure Subcommittee is closed.

Criminal Practice & Procedure Subcommittee

The Criminal Practice & Procedure Subcommittee is closed.



State & Local Government

Lawrence Hall, Jr.

This week the **State and Local Government** full committee had fifty bills on the calendar. Twelve bills were passed to Calendar and Rules and ten were passed to Finance, Ways, and Means. All other bills were rolled to a later calendar or taken off notice. The full committee will close in two weeks.

Calendar and Rules:

-SJR 82 by Lynn – This resolution designates “Tennessee Treasures Too” by Michael Sloan as an official painting of Tennessee.

-HB 1022 by Ferguson – This bill, as amended, will authorize the Department of Human Services to provide their surplus computers to low-income families.

-HB 1462 by Fitzhugh – This bill specifies that failure to pay the undisputed portion of the tax or any other delinquency on the property by the time of the hearing will result in dismissal of the hearing without further right to appeal.

-HB 1874 by Buck – This bill prohibits state and local elected officials from seeking elected state or local office after conviction of a state or federal felony related to public service.

-HB 1392 by M. Turner – This bill as amended resets certain election dates.

-HJR 293 by C. Cobb – This resolution expresses support for the location of the U.S. Air Force’s Combat Battlefield Airman Training program at Arnold Air Force Base in Manchester.

-HB 2240 by C. Cobb – This bill authorizes the department of general services to purchase goods and services through a competitive reverse auction process that allows offerors to bid on specified goods or services electronically and adjust

bid price during a specified period of time.

-HJR 263 by J. Cobb – This resolution names May 15, 2007 “State Trooper Recognition Day on the Hill.”

-SJR 58 by Gilmore – This resolution requests the department of correction to review the National Bill of Rights for Children of the Incarcerated and update the 1995 report on Children and Families of Incarcerated Felons.

-HB 894 by McCord – This bill adds to the legislative findings of contributions of open space preservation near urban areas that support the Greenbelt Law.

-SJR 116 by (Lynn) Black – This resolution designates June 7, 2007 as “Be a Hero for Babies Day.”

-HB 1264 by Lynn – This bill prohibits commissioners, appointed officers, and all personnel of water and wastewater authorities from receiving anything of value resulting from any agreement, contractual or otherwise, for the installation of services or the sale of materials to be installed within the district.

Finance, Ways, and Means:

-HB 1582 by Fitzhugh – This bill authorizes departments and agencies to elect to participate in a smoking cessation program for employees.

-HB 139 by Harmon – This bill authorizes the department to issue identification cards to inmates upon their release from state custody and to charge a fee of \$6.00 for the card.

-HB 733 by Hood – This bill requires all persons 18 or older to provide proof of lawful presence prior to receipt of certain public benefits.

-HB 1182 by S. Jones – This bill increases the recording fee for businesses transferring from one location to another within the same municipality from \$3.50 to \$5.00.



Rep. Cobb



State & Local Government

Lawrence Hall, Jr.

-HB 2309 by Bass – This bill authorizes retention of commissioned instructors a Tennessee law enforcement training academy following job-related injuries.

-HB 620 by M. Turner – This bill requires fire stations to be made gender-friendly.

-HB 1047 by C. Cobb – This bill allows a sheriff whose POST certification is inactive or no longer active for more than 10 years to pass the certification test within one year without attending the full recruit training program.

-HB 1221 by Gilmore – This bill requires governmental entities to notify interested persons of proposed projects or actions prior to issuing permits.

-HB 723 by McCord – This bill requires state agencies, universities, and community colleges to develop and initiate implementation of plans by January

1, 2008, to reduce or displace motor vehicle fleet use of petroleum products by 20 percent.

-HB 1276 by Lynn – This bill enacts the Regulatory Flexibility Act of 2007 and requires certain boards and commissions to review existing rules to ensure the rules have minimum negative

economic impact on small businesses and licensees subject to the jurisdiction of such boards.

The **State Government** subcommittee is closed.



Rep. McCord



Rep. Lynn

This week in **Local Government** subcommittee there were thirty-seven bills on the calendar. The committee passed five bills to full committee to be considered next week including **HB 1033 by J. DeBerry** from the *special calendar on tax relief*. The committee will consider the remaining bills on next week. Next week will be the subcommittee's final calendar.

Full Committee:

-HB 1533 by L. DeBerry – This bill requires the tax assessor to review and accept or reject a taxpayer's amended personal property schedule within 60 days of receipt.

-HB 1376 by Kernell – This bill authorizes the petition calling for a charter commission to amend or revise the charter of a home rule municipality to give the charter commission unlimited authority or to limit the scope of such charter commission to specific part or parts or subjects within parts of the charter to be amended, altered, or reformed.

-HB 1817 by Harmon – This bill, as amended, will increase county officials compensation when the legislature increases the compensation for state employees.

-HB916 by Shaw – This bill authorizes an employee of an energy distribution system purchasing electric energy from an energy acquisition corporation to serve as a director of the energy acquisition corporation.

Tax Relief Special Calendar Bills That Passed to Full Committee:

-HB 1033 by J. DeBerry – This bill authorizes counties and municipalities to adopt by resolution or ordinance a program of property tax relief for certain elderly homeowners.



Rep. Shaw

Elections Subcommittee is closed.



Transportation

Jeremy L. Elrod



Chairman
Pinion

Full Committee

The **House Transportation Committee** convened on May 1, 2007 to consider nineteen bills. **HB1382** (S. Jones), **HB855** (Bass), **HB2216** (Ferguson), **HB2271** (Odom), **HB1201** (Pinion), **HB1206** (Pinion), **HB698** (McCord) and **HB2186** (McCord) were deferred one week.

HB1515 (Harmon) was deferred until the third meeting of 2008. **HB1867** (Hensley) was taken off notice.

The following bills were referred to the **Calendar and Rules Committee**.

HB1704 (Montgomery) – As amended, increases from two to three the number of members of Tennessee aeronautics commission necessary to constitute quorum. The bill makes the heliport statute applicable in premier type tourist resorts located in a tourist resort county even though the county may have countywide zoning.

HB1247 (Odom) – As amended, requires commissioner of transportation to work with commissioner of tourist development to emphasize in welcome centers on interstates Tennessee attractions within a fifty mile radius within Tennessee.

The following bills were referred to the **Finance, Ways and Means Committee**:

HB1211 (S. Jones) – As amended, prohibits a federal interstate highway, federal highway, state highway or structure on such highways being named for a convicted felon. When satisfactory proof is prevented to TDOT that a highway or structure is named for a felon, the designation must be removed.

HJR154 (Shaw) – “Lt. James E. Mills Memorial Highway” highway signs on portion of SR 125 in Hardeman County. An amendment was adopted to pay for the signs with state highway funds.

HB1283 (Hensley) – Exempts persons 21 years of age and older from requirement that persons riding a motorcycle must wear a helmet.

HB1154 (Buck) – As amended, when a city lowers speed limits on state highways in its jurisdiction, it must do so on the basis of an engineering and traffic investigation and for public safety.

HJR381 (Tidwell) – “John Will Bates Memorial Bridge” highway signs on Highway 438 East over the Buffalo River in Perry County.

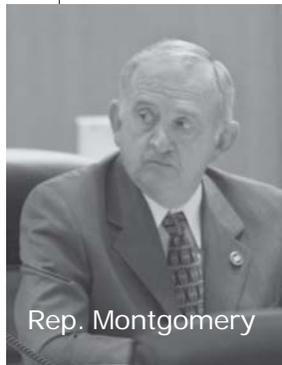
HB2115 (Tidwell) – Requires department of revenue to permit the registration of antique motor vehicle’s vintage license plates instead of current license plates.

HB1290 (Pinion) – As amended, allocates 75% of fines and fees collected on speeding tickets issued by a city with a population under 5,000 on an interstate to the state general fund.

HJR435 (Watson) – Urges widening and improvement of I-75 in Loudon, Monroe, McMinn, Bradley, and northeastern Hamilton counties.

HB1207 (Pinion) – The Omnibus Special License Plate Bill for 2007. Under the bill, the following new specialty license plates are created:

- Recreational Vehicle
- Alpha Omicron Pi
- Ohio State University
- Pink Ribbon
- For a Lifetime
- Trout Unlimited
- Retired Legislator, not be subject to the 1,000 plate minimum
- Friends of Natchez Trace Parkway
- Nashville Predators
- Civil War Preservation
- Historic Franklin
- 101st Airborne



Rep. Montgomery



Transportation

Jeremy L. Elrod

Diabetes Awareness
Sandhill Crane
Green McAdoo Cultural Center
The bill extends the following specialty licenses' sign-up period:

- Support Our Troops for 2 years
- Sons of the American Revolution for 1 year
- The MED for 1 year

The bill creates a Women Veterans of America military license plate. Also, the University of Tennessee's Lady Vols Championship specialty plate is revised for the plate to denote the team's seventh national championship. The funds raised from the sale of the plates is changed from being allocated to the University of Tennessee-Knoxville general scholarship fund to instead fund scholarships for women's athletics. The bill authorizes retired firefighters to receive firefighter license plates upon proof of retirement in good standing from a firefighting unit. Cultural plates for qualified Holders of the Purple Heart, which currently require a registration fee and an initial amount to make such plates revenue neutral, are redesignated as memorial plates, which are issued free of charge. Certain provisions currently in statute concerning issuance of

military license plates are clarified in the bill.



Chairman Fraley

Public Safety & Rural Roads Subcommittee

The **Public Safety & Rural Roads Subcommittee** met April 30, 2007, on the House floor to consider two bills.

On **HB698** (McCord), which had failed in the committee on March 20, a motion to reconsider the committee's actions was adopted. An amendment was

adopted so that a traffic citation issued for failure to comply with a traffic signal based on evidence from a surveillance camera installed to enforce/monitor traffic violations shall be a non-moving violation. The bill was referred to full **Transportation Committee**.

HB2186 (McCord) was referred to full **Transportation Committee**. As amended, the bill adds to the present law exemption from the building height and sign restrictions for certain scenic highways in Knox County property that is zone "C-6."

Public Safety & Rural Roads Subcommittee closed subject to the call of the chair.

Public Transportation & Highways Subcommittee

Public Transportation & Highways Subcommittee is closed subject to the call of the chair.

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