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- Comprehensive Business Tax Update
- Preparing for 2016: What Issues Will Be Hot
- Environmental Regulatory Update
GIBSON COUNTY UTILITY DISTRICT

The Gibson County Energy Complex

G.C.U.D. Commissioners signed agreement to begin construction.

Pictured back row: Commissioner Roger Dudley, General Manager Pat Riley, Mark Watkins-Mid West Energy Solutions, John Scearer-Constellation New Energy, Commissioner Tom Lannom, and Attorney Richard Gossum

Pictured middle row: Commissioners Najanna Coleman and Berlynne Holman

Seated: Commissioner Ed Norman

MAY 19, 2015 CELEBRATED GRAND OPENING

The (CNG)Compressed Natural Gas station is located across the highway from G.C.U.D.

1301 N. Hwy 45 Bypass, Trenton, TN 38382

Ph: 731-855-1441 F: 731-855-1454

www.gibsoncountygas.com

Rendering of the station provided by: Warman Architecture & Design

“In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, age, disability, religion, sex, and familial status.”
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On the Cover
Chairman’s Corner

It’s that time of year where the reigns are turned over from one Chair to the next in the natural progression of volunteer leadership in support of the Tennessee Chamber.

In July, Mike Robbins will take over as the Chair of the Tennessee Chamber. I’ve worked closely with Mike, who is Regional President at U.S. Bank, for the last year, and have enjoyed and benefited from his wit, wisdom and experience. The Chamber Board is in good hands.

My Chairmanship has been brief—being the result of me stepping in for my Caterpillar colleague Wes Blumenshine, who was promoted and relocated halfway through his Chamber board tenure. Nonetheless, I am proud of my association with the organization. We had a positive influence on many bills this legislative session identified as high priority by the business community—particularly in the areas of workforce readiness and corporate tax.

I hope we continue to build that momentum. We are, and have been, effective in utilizing Chamber staff, along with a vast team of business leaders from across the state, to educate and influence legislators in the Capitol. The next step is to drive greater membership engagement in keeping legislators informed and accountable in their home districts, as all politics are local.

I’d like to thank Catherine Glover and her entire team, along with Mike Robbins and the Chamber Board for their commitment and teamwork over the last year. The Tennessee Chamber is a good organization in the process of becoming great.

Catherine Glover

In a time of requisite café standards, cutting edge R&D focusing on lightweight, high strength composites development, and in a time when Tennessee has become one of the leaders in automotive and advanced manufacturing, the Tennessee Chamber of Commerce & Industry and its industrial division, the Tennessee Manufacturers Association, have taken the lead as the state partner for a most unique and novel initiative: L.I.F.T.

Lightweight Innovations for Tomorrow is a public-private partnership that will develop and deploy advanced lightweight materials manufacturing technologies and training programs to prepare the workforce. The LIFT region includes five states: Michigan, Ohio, Indiana, Kentucky and Tennessee. Formerly known as “ALMII”, LIFT is a component of one of five institutes set up by the U.S. government to maintain America’s manufacturing leadership. Known as the National Network for Manufacturing Innovation (NNMI), each institute has a particular focus. While LIFT accelerates technologies using lightweight metals, others will advance technologies in power generation, digital manufacturing, additive manufacturing, photonics, and advanced composites.

Lightweighting is a concept in the auto industry and defense vehicle industry that focuses on building vehicles that are less heavy as a way to achieve better fuel efficiency and handling. For instance, carmakers make parts from carbon fiber, windshields from plastic, and bumpers out of aluminum foam, etc., as ways to lessen vehicle load. The search to replace vehicle parts with lighter ones is not limited to any one type of part; engineers strive for lightweighting, anywhere and everywhere possible. (Extracted in part from https://en.wikipedia.org/wiki/Lightweighting)

Two pilot grants focusing on workforce development in support of lightweighting and advanced manufacturing workers of the immediate future have just been awarded, and will soon launch in Tennessee. One grant encourages and excites educators through materials science “bootcamps” in middle Tennessee. These camps will provide educators with the knowledge and tools they need to teach and engage students in materials science. The camps begin in July.

The second grant will pilot in west Tennessee in the early fall, and supports an 8th grade video production competition. This Tennessee student video contest is designed to raise awareness among students, parents, teachers, counselors and employers around opportunities for jobs and careers in lightweighting and advanced manufacturing.

Along with TCCI, state partners include many institutes for higher education, a variety of manufacturers from across the state, and representatives from state government.

Catherine Glover

WE'RE MOVING:
TN Chamber Announces New Home

After 25 years in the downtown Renaissance Hotel property, in August, 2015, the TCCI will be moving to the first floor of the Bank of America Building, located at 414 Union Street, Nashville. This new, dynamic location will offer the advanced technology and feel of a future-focused, vibrant business-trade organization. We will also be strategically and conveniently located directly across the street from the Cordell Hull building which is soon to be the new location of the Tennessee legislature, and only two blocks from the State Capitol.

The Chamber offices have and will continue to serve as a prime gathering spot for some of Tennessee’s most prominent elected officials and global business leaders. To support this new venue, the Chamber is offering opportunities for recognition of your company brand to be seen by all. For more information about sponsorship and marketing opportunities, please contact TCCI President Catherine Glover by calling (615) 256-5141, or sending an email to catherine.glover@tnchamber.org.

Clay Thompson
2015 TENNESSEE CHAMBER RECAP: HOW SESSION IMPACTED BUSINESS  By Bradley Jackson

The story of the 2015 Tennessee General Assembly is a simple narrative. They came to Nashville, completed their business at a rapid pace and returned home. Although the narrative is simple, it is a complicated story based on the internal battles and the work that goes into having a successful session. No doubt the first session of the 109th General Assembly will go down as one that produced solid results for the Tennessee Chamber and business in Tennessee. The work accomplished by the 109th General Assembly this year will ensure that our state is primed for future business growth, laying a solid path for workforce development, business tax incentives and taxation for current and future Tennessee industries.

The first year of the 109th legislative session began on January 13, 2015, and ended on Wednesday, April 22, 2015. This was an early adjournment considering a four week delay that included an organizational session, ice storms and a special session on Insure Tennessee. The early adjournment followed a commitment by legislative leaders to maintain a part-time legislature with limited yearly meetings.

In this edition of the Business Insider, we take an in-depth look at some of the most important bills and how they impact business. Nearly all of the bills passed by the General Assembly were either good for business or were changed to make them as good as possible for business. In total, the legislature introduced over 1,400 bills and approximately 527 of these were enacted into law. Bills filed this session range from taxation, government regulation, local governments, business mandates and regulation, economic development, healthcare and many other categories. In order to keep up with our lobbying efforts the TN Chamber engages in not just a few, but all major areas of policy impacting business. For 2015, the Chamber employed and contracted with 12 lobbyists to cover our government affairs tasks. The Chamber reviewed each filed bill, vetted the bill to determine positions and then communicated our positions to the legislature while monitoring these bills during the entire legislative process. Our work ensuring a positive outcome for business meant constant communication with legislators noting our opposition, requesting changes to these bills or supporting their passage. In this edition of the Business Insider we include a summary chart (P. 14) that outlines the most significant bills the Chamber worked on this session.

For the 2015 legislative session, business taxes were no doubt the most pressing issue as a number of important proposals were considered that significantly impacted business. The Chamber engaged heavily on the Revenue Modernization Act (RMA) proposed by Governor Haslam. Although there was much deliberation about the RMA and changes, in the end, it was productive for Tennessee based business with significant operations, and a mixed bag for other business.

In presenting the RMA, the goal of the Haslam administration was to bring additional state revenue to fund the growing demands of the state budget, especially in the areas of TennCare and Education, which combined, take up 71 cents of each $1.00 in state tax revenue. An additional goal of the RMA is to increase franchise and excise and sales tax collections by requiring all companies doing business in Tennessee to pay Tennessee tax. This presented a challenge to the Chamber in determining whether to work to defeat the proposal outright. In the end, both the administration and the legislature accepted a significant portion of the Chamber’s requests, where the Chamber tax committee agreed to accept the modifications in the bill. The RMA helped a number of Tennessee companies in changing the excise apportionment formula to triple weighting of sales tax. Tennessee had been a double weighted excise apportionment sales factor state since 1998 and was becoming an outlier in this area as many other states had changed their apportionment factor and are at single sales factor. This change will help companies with large payroll and infrastructure in Tennessee. Carl Hartley with Baker Donelson chairs the Chamber tax committee and has been engaged heavily in these discussions. He has written an in-depth article on all tax changes and their impact on business (P. 6). We encourage careful reading of the article. The Chamber would also like to thank a number of legislators who carefully weighed the RMA and advocated behind the scenes for Chamber supported changes. A special thanks to Senate Finance Chair Randy McNally (R-Oak Ridge), Senator Mark Norris (R-Collierville), Lt. Governor Ron Ramsey (R-Blountville) and Speaker Pro Temp Bo Watson (R-Hixson). In the House we would like to thank House Finance Chair Charles Sargent (R-Franklin), Rep. Gerald McCormick (R-Chattanooga) and Rep. Mike Harrison (R-Rogersville), along with administration officials and Commissioner Richard Roberts and his staff.

In addition to business taxes, there were other battles that were just as important for the business community but did not receive the attention of other issues this session. A number of employer mandates were opposed by the Chamber and outright defeated by the Republican majorities in the House and Senate. These mandates included substantial increases in TOSHA penalties for business and bills creating a myriad of protected classes of workers with special privileges that, if enacted, would have forced all business to provide additional accommodations. Many of these proposals included – state minimum wage hikes, mandated paid sick leave, “ban the box,” and requirements for paid time off to attend school functions, all are issues that will continue to come up in the future.

Despite many of the positive things that happened this session for business, there were still disappointments. The Governor’s Insure Tennessee proposal, despite support from a large segment of the business community, hospitals and healthcare companies, failed in the General Assembly. A number of strategic miscalculations and opponents’ ability to link the plan to the unpopular Affordable Care Act doomed the proposal from the start. Finger-pointing also ensued with legislators blaming the administration for lack of details and transparency, and advocates accusing the legislature of caving to pressure from a narrow segment of the electorate. Overall, it was a disappointing rollout and strategy from many players. The General Assembly also approved legislation opposed by the Chamber that erodes our status as an employment-at-will state, creating a protected employment class of handgun carry permit holders who store a weapon in their vehicle on company property. The Chamber has consistently opposed any new and special state-established employment classes. Over the summer and fall the Chamber will be offering seminars to ensure businesses are prepared for the new law. Bill Ozier, former Chamber Board Chairman, has written an article about the bill in this edition of the Business Insider (P.22).

The success of the Tennessee Chamber of Commerce & Industry’s legislative agenda could not have happened without the support and assistance of you, our Chamber investors. Speaking from a boots on the ground perspective, our legislators listen and value their relationship with local chambers and business and consider us a true resource for policy decisions. They want to hear from our Chamber investors. Speaking from a boots on the ground perspective, our legislators listen and value their relationship with local chambers and business and consider us a true resource for policy decisions. They want to hear from our Chamber investors. Speaking from a boots on the ground perspective, our legislators listen and value their relationship with local chambers and business and consider us a true resource for policy decisions. They want to hear from our Chamber investors. Speaking from a boots on the ground perspective, our legislators listen and value their relationship with local chambers and business and consider us a true resource for policy decisions. They want to hear from your through and explain the most important changes that happened for business in Tennessee. We are eager to hear from you about any pressing or future issues that you believe need to be addressed to make Tennessee the best state in the nation for starting, growing and relocating a business.
2015 TAX AND RELATED LEGISLATION  

By Carl E. Hartley, Esq.  

— Baker Donelson Bearman Caldwell & Berkowitz, PC (Chattanooga)

The 2015 Legislative Session, 109th General Assembly, considered a large number of tax and related bills. As to those bills enacted, of particular note is the Administration’s Revenue Modernization Act, 2015 Public Chapter No. 514 (“RMA”) which makes revisions to sales/use, franchise/excise and business taxes. Also important is the Administration’s initiative to enact certain tax incentives as well as sunset others as recommended by the Department of Economic & Community Development, found at 2015 Public Chapter 504 (“ECD Initiative”).

Material portions of the RMA and ECD Initiative, together with various other newly enacted tax legislation, are summarized below.

I. Sales and Use Taxes

A. RMA. These new sales/use tax laws are effective July 1, 2015 unless otherwise stated:

1. Remotely Accessed Software. RMA §22 provides that if a customer accesses software from a location in Tennessee as indicated by residential street address or primary business address of the customer, such access shall be deemed equivalent to sale or licensing of software and electronic delivery of software for use in Tennessee, thus subjecting such use to taxation. The “use of computer software” is defined to include access and use of software that remains in the possession of the dealer who provides software or in possession of a third party on behalf of such dealer. Exemptions include numerous services that are not currently subject to tax (such as information or data processing, payment or transaction processing services, payroll processing services, billing and collecting services, internet access, storage of computer software, among other services) as well as a new exemption created by RMA §24 for software accessed by a person for the exclusive purpose of fabricating other software that is both owned by and for that person’s own use and consumption. The Tennessee Department of Revenue (“Department”) has recently issued Important Notice No. 15-14 (June 2015) providing guidance on remotely accessed software.

2. Click-Through Nexus. RMA §27 expands the State’s taxing jurisdiction by implementing what is commonly characterized as “click-through” nexus. Under these provisions, a dealer is presumed to have a representative, agent or other solicitor operating in Tennessee for purposes of making sales and is presumed to have a substantial nexus with this State if the dealer enters into a contract with one or more persons in Tennessee under which that person or persons maintains potential customers to the dealer, and the dealer’s cumulative gross receipts from retail sales referred to the dealer by all Tennessee residents with this type of agreement exceeds $10,000 during the preceding twelve months. The presumption may be rebutted by clear and convincing evidence that the person did not conduct activities substantially contributing to the dealer’s ability to establish and maintain a Tennessee market. The Department has also issued guidance in Important Notice No. 15-12 (June 2015) dealing with these new click-through provisions.

3. “Fullest Extent” Allowable. RMA §26, effective May 20, 2015, adds language confirming that the State intends to enforce these taxes to the “fullest extent” allowed under the U.S. and Tennessee Constitutions.

B. ECD Initiative. Some sales/use tax provisions within the ECD Initiative are as follows:

1. R&D as Industrial Machinery. Under ECD Initiative §17, the industrial machinery exemption is expanded as of July 1, 2015 to include machinery, apparatus and equipment, with all associated parts, appurtenances, and accessories, and any necessary repair or taxable installation labor therefor, that is necessary to and primarily for the purpose of research and development.

2. Expiration of Emerging Industry/Cultural Attraction Credit. This credit expired on July 1, 2015 as a result of ECD Initiative §21; provided, that any taxpayer that has filed a business plan with the Department prior to July 1, 2015 shall continue to be eligible for the credit.

3. “Regional” Deleted from Headquarters Facility Credit. Although the headquarters facility credit is retained for international and national headquarters which meet certain conditions, regional headquarters no longer are included in this credit under ECD Initiative §§18 and 19; provided that a taxpayer that filed an application and business plan with the Department prior to July 1, 2015 shall continue to be eligible for the credit.

C. Other Sales/Use Tax Legislation. In addition to the RMA and ECD Initiative, certain other sales/use tax legislation is as follows:

1. Streamlined Sales Tax Project Again Delayed. The Streamlined Sales and Use Tax Project has again been delayed from July 1, 2015 to July 1, 2017 by 2015 Public Chapter No. 273. The Project is a national effort to find solutions to simplify and modernize sales tax systems imposed by a significant number of states. Tennessee has been an associate member of the Streamlined Sales Tax Governing Board since its inception in 2005.

2. Warranty/Services Contracts Consolidated. 2015 Public Chapter No. 273 also consolidates the sales/use tax laws with respect to warranty and services contracts effective October 1, 2015. Based upon discussions with the Department, these consolidations are intended to be more a reconfiguration than a substantive law change. The Department has issued an Important Notice No. 15-11 (June 2015) providing guidance with respect to these provisions.
(3) Co-Generation Equipment Considered as Industrial Machinery. Pursuant to 2015 Public Chapter No. 420, effective July 1, 2015, the industrial machinery exemption includes co-generation equipment purchased or leased by a qualified manufacturing facility for generating, producing, and distributing utility service directly to the qualified manufacturing facility. “Qualified manufacturing facility” is defined to mean a facility located within a nonattainment area, as designated by the Environmental Protection Agency, in a county having a certain population, which significantly reduces pollution particulate matter and the capital investment exceeds $30 million. This new provision is to sunset on December 31, 2016.

(4) Firearms Equipment No Longer Industrial Machinery. As a result of 2015 Public Chapter No. 249, effective April 24, 2015, the industrial machinery exemption no longer includes this equipment.

(5) Expanded Wastewater Treatment Equipment as Industrial Machinery. The industrial machinery exemption previously included equipment for use by county/municipality for use in water pollution control or sewage systems. Pursuant to 2015 Public Chapter No. 81, effective July 1, 2015, that language is deleted and new language is substituted as follows: “or such use by a county, municipality or water and wastewater treatment authority created by private act or pursuant to the Water and Wastewater Treatment Authority Act, compiled in title 68, chapter 221, part 6, or a contractor pursuant to a contract with the county, municipality or water and wastewater treatment authority for use in water pollution control or sewage systems.”.

(6) New Exemptions Relative to Large Aircraft. Pursuant to 2015 Public Chapter No. 506, effective July 1, 2015, new exemptions pertain to “large aircraft.” That phrase is defined to mean aircraft that has a certified maximum take-off weight of 12,500 pounds or greater. These exemptions include: (i) sale, use or consumption of parts, software and equipment that is sold to an authorized large aircraft service facility (which includes a repair station located within Tennessee engaged in repair or refurbishment services of large aircraft mainframes, equipment, and accessories under a valid FAA air agency certificate); (ii) repair and refurbishment service labor performed with respect to large aircraft mainframes, engine equipment and accessories, when initiated, contracted or performed by an authorized large aircraft service facility; and (iii) sales, leases and purchases of large aircraft and equipment within Tennessee when the foregoing have or are intended to have situs outside this State following the sale, lease or purchase, and when the foregoing remain in Tennessee solely for the purpose of repair and refurbishment services by an authorized large aircraft service facility and are removed from Tennessee within fifteen days from completion of such services.

(7) Helicopter/Airplane Exemptions Revised. Pursuant to 2015 Public Chapter No. 48, effective January 1, 2016, sales of helicopters or airplanes within Tennessee to nonresident purchasers, where the foregoing are intended to have situs outside Tennessee and are removed from Tennessee, will be exempt if such removal occurs within thirty days (as compared to fifteen days
Bridgestone Americas received the 2015 Corporate Citizen Award, in recognition for its positive impact on Tennessee’s business climate, its civic engagement and its commitment to bettering the communities in which it conducts business.
under current law) from the date of their purchase. Further, and despite possible confusion with 2015 Public Chapter No. 506 (see above), a similar change from fifteen to thirty days is applicable with respect to repair and refurbishment services with respect to airplanes and components.

II. Franchise and Excise Taxes

A. RMA. Portions of the RMA dealing with franchise/excise taxes are as follows:

(1) Economic Nexus. The Commerce Clause, United States Constitution, has long been interpreted as prohibiting discrimination against interstate commerce, such that a tax with respect to interstate commerce will be sustained only if certain conditions are satisfied -- one such condition being that the taxes must apply to an activity with a “substantial nexus” to the taxing state. In a 1992 franchise and excise tax case, the Tennessee Court of Appeals relied upon a 1992 U.S. Supreme Court decision addressing the North Dakota use tax in ultimately determining that physical presence in Tennessee is required in order to satisfy the substantial nexus condition -- as compared to economic nexus where an out-of-state business avails itself of the benefits of the Tennessee economic market but without physical presence in this State. Since 1999, several court decisions outside Tennessee have indicated that the 1992 Supreme Court decision was limited to use taxes and that, in any event, economic nexus would also satisfy the substantial nexus condition for business income taxes.

RMA §6 now defines substantial nexus as not only including traditional notions of nexus such as being organized or domiciled in Tennessee or systematically or continuously doing business activity in Tennessee, but also including economic presence in this State as substantial nexus. Based upon that new definition, RMA §§7 (excise tax) and 15 (franchise tax) impose these taxes upon doing business and having substantial nexus in this State. The economic presence provisions include situations where the taxpayer licenses intangible property for use by another in Tennessee and derives income from that use in this State; as well as in other situations that are described in the RMA as “bright-line” presence in Tennessee -- with a person having such bright-line presence in Tennessee if (a) taxpayer's total receipts in Tennessee during the tax period exceed the lesser of $500,000 or 25% of the taxpayer's total receipts everywhere, (b) average value of the taxpayer's real and tangible personal property owned or rented in Tennessee during the tax period exceeds the lesser of $50,000 or 25% of the average value of all the taxpayer's total real and tangible personal property, or (c) total amount paid in this State during the tax period as compensation exceeds the lesser of $50,000 or 25% of the total compensation paid by the taxpayer. Notwithstanding the foregoing, the RMA provides that no company treated as a foreign corporation under the Internal Revenue Code and that has no income “effectively connected” with a U.S. trade or business (as determined in accordance with such Code) shall be considered to have a substantial nexus in Tennessee. These provisions are effective January 1, 2016, and shall apply to all tax years beginning on or after that date.

As to the constitutionality of this substantial nexus definition, the Tennessee Attorney General issued Opinion No. 15-37 (April 22, 2015) stating that the RMA's definition of substantial nexus is defensible under the U.S. Constitution.

(2) Intangible Expenses Paid to an Affiliate. The Tennessee excise tax prohibits (with certain safe-harbor exceptions) the deduction of intangible expenses (such as royalty or license fees paid with respect to patents or trademarks) paid by a Tennessee taxpayer to an out-of-state affiliate unless the Tennessee taxpayer applies to and is granted the right by the Department to take such deduction. RMA §28 deletes the current application approval process and substitutes the requirement that if such expense has been disclosed in accordance with RMA §29, then such deduction is allowable if either of the following conditions are satisfied: (i) affiliate to whom the expense has been paid is registered for and paying the excise tax to this State; or (ii) expense was paid to an affiliate in a foreign nation that is a signatory to a comprehensive income tax treaty with the United States or to an affiliate that is otherwise not required to be registered for or pay the excise tax. This new provision is effective July 1, 2016, and shall apply to all tax years beginning on or after that date.

(3) Triple-Weighted Receipts Apportionment Factor. To assist with economic development, as well as to provide some fairness for Tennessee employers that have substantial payroll and capital investments in this State but sell their products predominately outside this State, RMA §§8 (excise tax) and 16 (franchise tax) increase the current double-weighting to triple-weighting for the receipts factor in the apportionment formula. This is effective for tax years beginning on or after July 1, 2016.
(4) **Market Sourcing for Services/Intangibles.** Tennessee has apportioned receipts from sales of services and intangible property pursuant to a costs of performance analysis: that is, if the earnings-producing activity of such non-tangible personal property is performed both in and outside Tennessee, then receipts are apportioned to Tennessee if a greater proportion of the earnings-producing activity is performed in this State than in any other state based upon a costs of performance analysis.

RMA §§9 (excise tax) and 17 (franchise tax) delete those current apportionment provisions and substitute new apportionment provisions establishing that receipts from sale of services/ intangible property are in Tennessee if the taxpayer’s market for the sale is in this State. These so-called market-based apportionment provisions, which are effective July 1, 2016 and which shall apply to all tax years beginning on or after that date, address various circumstances in attempting to identify the taxpayer’s market. For instance, these new apportionment provisions provide that the market for a sale is in Tennessee if the property is located in Tennessee or if the service is delivered in Tennessee, or if the intangible property is leased or licensed and then to the extent that the property is used in Tennessee (with certain provisos) or if the intangible property is sold and then to the extent that the property is used in Tennessee with certain additional conditions. Where a determination cannot be made as to which state should be assigned the receipts, the RMA provides that the state of assignment “shall be reasonably approximated” and where the state of assignment cannot be reasonably approximated, then the sale shall be excluded from both the numerator and denominator of the receipts factor. Obviously, not every set of circumstances can be addressed in the RMA regarding the appropriate market for services or intangible properties.

The Tennessee Attorney General, in Opinion No. 15-37 (April 22, 2015) discussing certain sales of services under the RMA, stated that the “Commissioner of Revenue … would be empowered to determine how best to construe and apply … the reasonably approximated provision.”

(5) **Certified Distribution Sales - New Apportionment Formula.** RMA §14 adopts a new elective apportionment provision for certain taxpayers having significant sales which constitute “certified distribution sales.” That phrase means the sale of tangible personal property “made in this state by the taxpayer to any distributor, whether or not affiliated with the taxpayer, that is resold for ultimate use or consumption outside this state; provided that the distributor has certified that such property has been resold for ultimate use or consumption outside this state.” Assuming that the taxpayer makes an election under this new provision, “the total amount derived from certified distribution sales is excluded from the numerator of the taxpayer’s receipts factor.” In exchange for such exclusion, however, the taxpayer must pay a separate excise tax on the certified distribution sales equal to 0.5% if such sales do not exceed $2 billion; 0.375% of such sales that exceed $2 billion but not more than $3 billion, plus a payment of $10 million; 0.25% of such sales that exceed $3 billion but not more than $4 billion, plus an additional $13 3/4 million; and 0.125% of such sales that exceed $4 billion, plus an added $16 1/4 million. This separate excise tax is in addition to all other taxes, including the existing excise tax. A taxpayer is eligible for this alternative, elective apportionment if its gross sales of tangible personal property in Tennessee exceed $1 billion and the taxpayer’s receipts factor exceeds 10%. This new formula is effective as of January 1, 2016, and shall apply to all tax years beginning on or after that date.

B. **ECD Initiative.** Some provisions of the ECD Initiative addressing franchise/excise taxes are summarized as follows:

(1) **Job Tax Credit Made Permanent.** The current job tax credit defines a “qualified job” as being a job meeting various criteria, just one being that the job position is filled prior to January 1, 2016 -- in essence, such date being the termination date of the credit. One effect of ECD Initiative §7 is to eliminate that January 1, 2016 date, so as to make the credit permanent.

(2) **Integrated Customer/Supplier Eliminated.** ECD Initiative §§ 2 (integrated customer) and 3 (integrated supplier) eliminate these definitions. Section 8 restates the job tax credit previously available without referencing those terms. These eliminations were effective July 1, 2015, and apply to tax years ending on or after that date.

(3) **Expiring Credits.** The ECD Initiative sunsets various credits as of July 1, 2015. Those expiring include: (a) 1% industrial machinery credit for a general partnership that operates a call center ($4); (b) credit for qualifying environmental projects ($5); (c) job tax credit for general partnership that operates a call center ($9); (d) converting unused job tax credits and other credits into refundable credits by certain airline companies ($10); (e) certain headquarters relocation credit ($11); (f) certain headquarters credits tied to net operating losses ($12); (g) certain certified green energy credit ($13); (h) certain qualified medical trade center relocations ($14); (i) certain qualified advertising expenses promoting a qualified medical trade center ($15); and (j) certain credits for buildings and other structures developed using the state funding method ($16). Business plans submitted to the Department prior to July 1, 2015 may preserve the eligibility for some of these credits.

(4) **Brownfield Credit Preserved.** Because of an amendment to the ECD Initiative, the enacted version does not repeal the Brownfield credit.

C. **Community Resurgence Job Tax Credit Act of 2015.** This new Act, 2015 Public Chapter No. 521, effective July 1, 2015, creates a franchise/excise tax credit for certain qualified businesses -- that is, a new or existing business located in a high-poverty area according to the most recent decennial determination at the time that a business plan is filed with the Department. The phrase “high-poverty area” means a census tract with a poverty level, all population, in excess of thirty percent according to the American community survey three-year estimates in 2013, and determined decennially thereafter. The business must file a plan with the Department to qualify for the credit; and must create at least ten qualifying jobs. The credit shall first apply in the tax year in which the business first satisfies the job creation requirements and in subsequent years in which further net increases occur. The credit shall not exceed sixty percent of the combined tax liability. Unused credit may be carried forward up to fifteen years. The aggregate amount of credits allowed to all taxpayers under this Act shall not exceed $12.5 million in any one tax year.

III. Business Taxes

The RMA also made changes to the Tennessee business tax, summarized as follows:

(1) **Economic Nexus.** As with the substantial nexus pro-
visions for franchise and excise taxes discussed above, RMA §3 adopts similar provisions for the business tax. This new standard is effective January 1, 2016, and shall apply to all tax years beginning on or after that date.

(2) Out-of-State Businesses -- Expanded Scope of Taxable Activities. RMA §5 expands the scope of taxable business activities for out-of-state businesses. Currently, out-of-state companies without a physical location in Tennessee are subject to the tax if they are performing any one of four activities specifically enumerated. Under the RMA, however, all persons with substantial nexus in this state and “engaged in this state” in any vocation, occupation, business or business activity with or without establishing a physical location in Tennessee are subject to the tax. The phrase “engaged in this state” includes “but not be limited to” various enumerated activities. The intent of the RMA is to shift from the current narrow standard that is focused upon four specifically enumerated taxable activities to a broad standard that references certain identified activities as including but not being limited to the type of taxable activities. This new scope is effective January 1, 2016, and shall apply to all tax years beginning on or after that date.

IV. Property Taxes

The following are just some of the property tax legislation enacted during the 2015 Session:

(1) Delinquent Property Taxes. Pursuant to 2015 Public Chapter No. 414, effective May 8, 2015, various revisions have been made with respect to delinquent property taxes, including revisions regarding the enforcement of delinquent property taxes, the finality of real estate titles that have been conveyed pursuant to tax liens enforcement, liability for property taxes regardless of whether an interested party has received a tax bill, disposition of excess proceeds from a tax sale, and many other aspects of delinquent property tax enforcement. Further, 2015 Public Chapter No.524, effective May 20, 2015, authorizes certain reports to be prepared by the clerk of the court to such sales.

(2) Classification or Assessment Changes. Pursuant to 2015 Public Chapter No. 215, effective April 20, 2015, actions pursuant to Tenn. Code Ann. §67-5-1510 shall commence by issuance of required notice on or before September 1 of the year following the year to which the notice relates.

(3) Assessor to Correct Errors. Property assessors are currently required to correct obvious clerical mistakes apparent from the face of the official records, involving no judgment of or discretion by the assessor. Pursuant to the 2015 Public Chapter No.193, effective April 22, 2015, these correction requirements are clarified so as to include an owner’s right to argue that such correction affected the recorded value.

V. Other Tax Related Legislation

Other tax related legislation also enacted during the 2015 Session is as follows:

(1) Not Confidential. Tenn. Code Ann.§67-5-303 provides the assessor with the authority to go upon the land in order to obtain information for the assessment of property. Information obtained pursuant to that Section is to be kept confidential, except as otherwise authorized. Pursuant to 2015 Public Chapter No. 136, effective April 16, 2015, nothing in that Section shall be construed to make evidence introduced in court or administrative proceedings confidential “unless otherwise provided in a protective order issued by the judge in the proceedings.”

(2) Hall Income Tax Exemption for Seniors. Pursuant to 2015 Public Chapter No. 434, effective for tax years beginning January 1, 2015 and thereafter, the exempt income levels shall change to $37,000 for single filers and $68,000 for persons filing jointly.

(3) HMO Tax Increased. Pursuant to 2015 Public Chapter No. 362, effective July 1, 2015, the tax paid pursuant to Tenn. Code Ann. §56-32-124 is increased from 5 1/2% to 6% of gross amount of dollars collected from or on behalf of an enrollee.

VI. Conclusion

Many of these new tax and related laws are very complex. As a result, before acting upon or in regard to these new laws, careful consideration of the foregoing is required in the context of your particular situation.

2015 Business Tax Update
September 24, 2015
8 a.m. - 5 p.m.
Embassy Suites
10 Century Blvd.
Nashville, TN 37214
EDUCATION AND WORKFORCE UPDATE: 2015 LEGISLATION

By Frankie Anderson

Following the elections of 2014, debate surrounding Tennessee’s controversial education standards was in full gear. Leading up to session, politicians made it clear they were committed to significantly changing the current K-12 education standards and assessments. Politicians and wide and anticipated drastic changes that would have far-reaching consequences for students, teachers and Tennessee’s future workforce. Incorporated into the debate was the substantial progress in student achievement noted in the 2013 National Assessment of Educational Progress (NAEP) which demonstrated that Tennessee had the largest growth in student achievement gains of any state in a single testing cycle since NAEP beginning nationwide assessments a decade ago. Beyond this, Chamber members and businesses emphasized the need for high quality standards to provide a basic foundation to ensure students are ready to enter the workforce or higher education institutions for both technical and four-year degrees.

With Senate and House members promising to make drastic changes, Governor Haslam, in an effort to strategically prepare for the legislative debate, announced a public review process of the education standards for English Language Arts and Mathematics. This move proved effective in helping to guide the discussion over standards during the 2015 legislative session. After months of thoughtful consideration between members of the General Assembly, a compromise emerged to codify Haslam’s standards review process, in utilizing the online portal for public comments and creating multiple review/development committees and advisory teams to make professional recommendations to the State Board of Education. In addition, the compromise bill (Public Chapter 423) includes a new component to Haslam’s original review process by establishing a recommendation committee composed of legislative appointments to review the proposed new standards and make final recommendations. Each appointment will be subject to legislative approval in 2016. At a later date, a similar process will be used to review and improve the standards for Science and Social Studies. The Chamber was pleased with this outcome that will ensure a Tennessee solution to concerns over our current standards, and appreciates the thorough work of the legislature in crafting this compromise. The Chamber would like to personally recognize the work of Rep. Billy Spivey, Sen. Mike Bell, Rep. John Forrey, Rep. Mark White, Sen. Dolores Gresham and all members of both Education Committees for their work.

Another significant piece of workforce legislation supported by the Chamber and passed this session was Tennessee Reconnect. TN Reconnect is the newest component of the Governor’s Drive to 55 initiative aimed to help non-traditional students to complete their degree tuition free at a Tennessee college of applied technology (TCAT). TN Reconnect follows last year’s Tennessee Promise which allows high school graduates to attend their first two years at a community college tuition free. We encourage all employers to notify their employees about the TN Reconnect program. To learn more visit www.tnreconnect.gov.

Overall, the Chamber is pleased with the progress made this year in Education and Workforce Development and we look forward to continuing our work on these issues in the future to ensure Tennessee has a prepared workforce. Please view the 2015 Chamber Positions page to view the outcomes of other education bills important to business that were considered this session.

ENVIRONMENT AND ENERGY UPDATE: CHAMBER KEEPS AN EYE OUT FOR INDUSTRY

By Amy Martin and Chris Moore, Chair, Environment & Energy

The Tennessee Chamber is having a busy 2015. In addition to a full slate of activity from TDEC’s water, air, solid waste and underground storage tank boards promulgating various rules and regulations, the Chamber also had to contend with a very active legislative session. The 2015 legislative session was a successful year for industry on the environment and energy (E&E) front. Due to the number of complex regulatory issues from EPA, well-structured committees in both the Senate and House, and industry’s engagement on E&E issues, the number of bills introduced impacting environmental and energy policies for industry were limited this legislative year. Below are several E&E highlights from the session.

- Legislation (Public Chapter 292), revising the Tennessee Petroleum Underground Storage Tank Act was amended at the request of the Tennessee Chamber of Commerce & Industry (TCCI). After these changes the Chamber supported the proposed bill. The bill makes several changes to the Tennessee Petroleum Underground Storage Tank Act, including the significant increase of the maximum reimbursement from the Petroleum Underground Storage Tank Fund for cleanup costs of a release from $1m to $2m. Since this legislation increases state expenditures, it was essential for it to be in the Governor’s legislative package.

- Initially, TCCI opposed legislation (Public Chapter 478) requiring TDEC to get approval from the legislature prior to submitting any plan to comply with the Clean Power Plan - 111(d) rule. As originally filed, the bill required the General Assembly to review, comment, and approve Tennessee’s plan to EPA. Chamber members were concerned that this approval could potentially make the state vulnerable to a Federal plan and could lead to changes in the air, water and solid waste rule process. TCCI worked with Tennessee Electric Cooperative Association, the Tennessee Municipal Electric Power Association and the Tennessee Mining Association to amend the bill to delete the requirement on TDEC to submit and receive approval from the General Assembly requiring the Tennessee Advisory Commission on Intergovernmental Relations (TACIR) to prepare an impact report on the state’s final plan to the EPA. When completed, TACIR is required to present their report to the Joint Government Operations Committee. Note that if EPA decides to give Tennessee credit for the decrease in carbon dioxide emissions from Watts Bar Unit 2 nuclear facilities which is scheduled to come on-line June 2016, TACIR will not be required to prepare an impact report.

- TCCI supported legislation negotiated and supported by the scrap metal industry and law enforcement agencies (Public Chapter 466) regarding motor vehicles dismantlers, recyclers, and scrap metal processors. The comprehensive legislation will require dismantlers, recyclers, and scrap metal processors to submit information to the Department of Revenue rather than to the National Motor Vehicle Title Information Systems, as well as collect additional records in certain circumstances.

- The General Assembly also renewed through sunset bills to extend both the Department of Environment and Conservation and the Air Pollution Control Board to June 30, 2019. The Chamber advocated for the extended four-year renewal period rather than the two-year standard that has been adopted in recent years. The Senate also approved a Senate Joint Resolution, supported by the Chamber that encourages the Nuclear Regulatory Commission to support the license application for operations of TVA’s Watts Bar Unit 2.

- Legislation (SB0842) supported by the Chamber allowing Tennessee to assume primacy over the regulation of surface coal mining and reclamation operations in Tennessee made significant progress by passing standing committees in the Senate and House. However, due to the fiscal cost of the proposed bill it was held up in both the Senate and House Finance Committees.

Our work is not done, as we always must keep an eye out for new rules and regulations and outside groups who seek to influence the work of TDEC. We look forward to continuing our partnership with you as we work together to ensure that Chamber members have a strong voice and presence in the 2016 legislative session.
EPA & CORPS ISSUE FINAL RULE ON WATERS OF U.S. / RULE WILL HAVE SIGNIFICANT IMPACTS ON BUSINESS

By Bill Penny - bpenny@burr.com and Greg Young - gyoung@burr.com  Burr and Forman, LLP

The federal government, through the Environmental Protection Agency ("EPA") and the United States Army Corps of Engineers ("Corps") is on the cusp of taking federal control of virtually all waters. On May 27, 2015, the EPA and Corps (the "Agencies") released their Final Rule on Waters of the United States (the "Rule"). EPA nicknamed the Rule "the Clean Water Rule." The EPA repeatedly asserted in its 197-page Preamble to the 8-page Rule that "the scope of jurisdiction is narrower than that under the existing regulations." Suffice it to say that the vast majority of the regulated community disagrees with EPA's assertion. Businesses and industry groups like the American Farm Bureau and the U.S. Chamber of Commerce are already planning to appeal the Rule on the grounds that the Rule exceeds federal authority by over-imposing federal Clean Water Act jurisdiction upon almost anything that is wet.

A substantial disconnect exists between EPA's position that the Rule reduces the scope of Clean Water Act jurisdiction, and industry's position that the Rule is a jurisdictional "power grab" by the federal government. Two significant points of concern for industry include the expansive definition of the term "tributary" in the Rule, as well as the broad reach of waters that are considered "adjacent" under the Rule and subject to Clean Water Act jurisdiction. The new definition of "tributary" includes any waterbody, whether natural or manmade, that: (i) has a bed and bank and ordinary high water mark, and (ii) contributes flow either directly or indirectly to a per se jurisdictional water. As to "adjacent" waters, the U.S. Chamber of Commerce recently commented that "under this new definition, bodies of water or wetlands over three-quarters of a mile from a navigable water could fall under federal jurisdiction if the federal government decides that it significantly affects another body of water."

Lost in the lengthy Preamble to the Rule is the lack of clear discussion about the limits of Congress' authority to regulate waters under the Commerce Clause of the United States Constitution. In Solid Waste Agency of Northern Cook County v. United States Army Corps of Eng'rs, 531 U.S. 159 (2001), the Supreme Court refused to give deference to the Corps' interpretation concerning regulation of intrastate waters based on the presence of migratory birds. According to the Court "[w]here an administrative interpretation of a statute invokes the outer limits of Congress' power, we expect a clear indication that Congress intended that result." 531 U.S. 159, 172.

In conclusion, expect additional litigation as well as potential Congressional legislation regarding the Rule. The Rule has already received much political scrutiny, and as such, a Congressional fix may occur as legal challenges are prepared and filed in the Courts.
During the first year of the 109th General Assembly, more than 2,200 bills and resolutions were introduced and 527 were enacted into law. Each bill was reviewed by the Tennessee Chamber to determine any potential harmful effects on business. The Chamber then took a position that was later approved and adopted by the Board of Directors. This chart lists each of the bills and the ultimate result. It is our way of being accountable to you.

**Total Positions: 57**

<table>
<thead>
<tr>
<th>Total Bills Opposed: 24</th>
<th>Defe: 7</th>
<th>Total Bills Supported: 26</th>
</tr>
</thead>
<tbody>
<tr>
<td>▪ Passed: 0</td>
<td></td>
<td>▪ Passed: 23</td>
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<tr>
<td>▪ Failed: 24</td>
<td></td>
<td>▪ Failed: 3</td>
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<tr>
<td>▪ Supported/Deferred and Passed with business-accepted amendment: 7</td>
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</tbody>
</table>

In this chart, you will see the bills divided by areas of interest with bill and public chapter numbers, sponsors, a brief description, Chamber position, and final disposition. Like any good business, the Chamber works hard to earn its members a meaningful return on their investment.

### AGRIBUSINESS

<table>
<thead>
<tr>
<th>BILL</th>
<th>SPONSOR</th>
<th>SYNOPSIS</th>
<th>POSITION</th>
<th>STATUS</th>
</tr>
</thead>
</table>
| SB0321  
HB0290 | Norris  
McCormick | Revises fees for all agriculture regulatory fund programs allowing them to be self-sufficient and mostly funded by users. Chamber amendments reduced the amount of yearly increases that could occur. | DEFER With 
Chamber Amendments | PASSED 
Public Chapter 485 |
| SB0394/  
0551/096  
HB0521/  
1217/1218 | Niceley  
Butt  
Towns  
Towns | Combination of proposed legislation requiring all plant seeds and products sold in the state be labeled as genetically modified. | OPPOSE | FAILED |
| HJR0218 | K. Brooks | General Assembly statement to support the use of science-based data to assess the impacts and regulation of modern agricultural technologies. | SUPPORT | PASSED |

### ECONOMIC DEVELOPMENT

<table>
<thead>
<tr>
<th>BILL</th>
<th>SPONSOR</th>
<th>SYNOPSIS</th>
<th>POSITION</th>
<th>STATUS</th>
</tr>
</thead>
</table>
| SB0086  
HB0076 | Norris  
McCormick | Limits practices noted by ECD where jobs credits were used by professional employment organizations. Legislation requires credits to be used for actual employees. | SUPPORT | PASSED 
Public Chapter 84 |
| SB0629  
HB0549 | Bailey  
Powell | Permanently establishes the Made in Tennessee Act to promote TN manufactured goods. | SUPPORT | PASSED 
Public Chapter 131 |
| SB0751  
HB0780 | Watson  
Carter | Bill would have authorized in each county to establish a joint economic and community development board, in addition to existing IDB. Boards would have assumed the powers and authority granted to an industrial development corporation. | OPPOSE | FAILED |
| SB0998  
HB1039 | Gardenhire  
McCormick | Revises the Border Region Retail Tourism Development District to benefit certain economic development projects in the Chattanooga area. | SUPPORT | PASSED 
Public Chapter 405 |
### EDUCATION AND WORKFORCE

<table>
<thead>
<tr>
<th>Bill Number</th>
<th>Sponsor</th>
<th>Sponsor's Name</th>
<th>Description</th>
<th>Vote Status</th>
<th>Passed/Failed</th>
<th>Public Chapter</th>
</tr>
</thead>
<tbody>
<tr>
<td>SB0453</td>
<td>Gardenhire</td>
<td>H. Brooks</td>
<td>Authorizes the Tennessee STEM innovation network to establish STEM innovation hubs in rural areas of the state and in Northwest Tennessee.</td>
<td>SUPPORT</td>
<td>PASSED</td>
<td>489</td>
</tr>
<tr>
<td>SB0552</td>
<td>Gardenhire</td>
<td>H. Alexander</td>
<td>Establishes that members of the State Board of Education be popularly elected.</td>
<td>OPPOSE</td>
<td>FAILED</td>
<td></td>
</tr>
<tr>
<td>SB0605</td>
<td>Norris</td>
<td>McCormick</td>
<td>Establishes the Community College Reconnect Grant for independent students seeking to complete an associate of applied science degree. Grant recipients will receive tuition assistance.</td>
<td>SUPPORT</td>
<td>PASSED</td>
<td>363</td>
</tr>
<tr>
<td>SB0803</td>
<td>Niceley</td>
<td>Womick</td>
<td>Bill would have limited the use and implementation of certain assessments in schools.</td>
<td>OPPOSE</td>
<td>FAILED</td>
<td></td>
</tr>
<tr>
<td>SB1163</td>
<td>Bell</td>
<td>Spivey</td>
<td>K-12 education standards compromise bill.</td>
<td>SUPPORT</td>
<td>PASSED</td>
<td>423</td>
</tr>
<tr>
<td>SB1291</td>
<td>Hensley</td>
<td>VanHuss</td>
<td>Authorizes a local referendum in order to renew the contract of a director of schools.</td>
<td>OPPOSE</td>
<td>FAILED</td>
<td></td>
</tr>
</tbody>
</table>

### ENVIRONMENT AND ENERGY

<table>
<thead>
<tr>
<th>Bill Number</th>
<th>Sponsor</th>
<th>Sponsor's Name</th>
<th>Description</th>
<th>Vote Status</th>
<th>Passed/Failed</th>
<th>Public Chapter</th>
</tr>
</thead>
<tbody>
<tr>
<td>SB0092</td>
<td>Norris</td>
<td>McCormick</td>
<td>Makes various changes to the regulation of petroleum underground storage tanks and waste. Bill increases the amount of compensation business can receive from the fund.</td>
<td>SUPPORT</td>
<td>PASSED</td>
<td>292</td>
</tr>
<tr>
<td>SB0216</td>
<td>Bell</td>
<td>Faison</td>
<td>Extends the air pollution control board to June 30, 2019.</td>
<td>SUPPORT</td>
<td>PASSED</td>
<td>204</td>
</tr>
<tr>
<td>SB0232</td>
<td>Bell</td>
<td>Faison</td>
<td>Extends the department of environment and conservation to June 30, 2019.</td>
<td>SUPPORT</td>
<td>PASSED</td>
<td>17</td>
</tr>
<tr>
<td>SB0842</td>
<td>Yager</td>
<td>Powers</td>
<td>Enacts the &quot;Primacy and Reclamation Act of Tennessee&quot; establishing a state mining permit program for business.</td>
<td>SUPPORT</td>
<td>FAILED</td>
<td></td>
</tr>
<tr>
<td>SB1098</td>
<td>Bailey</td>
<td>C. Sexton</td>
<td>Bill makes various pro-industry changes to the regulation of motor vehicle dismantlers and recyclers and scrap metal processors.</td>
<td>SUPPORT</td>
<td>PASSED</td>
<td>466</td>
</tr>
<tr>
<td>SB1325</td>
<td>McNally</td>
<td>Keisling</td>
<td>Establishes business and legislative review and report process of Tennessee’s implementation of section 111(d) of the EPA’s guidelines before the plan can be submitted to the EPA.</td>
<td>SUPPORT</td>
<td>PASSED</td>
<td>478</td>
</tr>
</tbody>
</table>

### HUMAN RESOURCES

<table>
<thead>
<tr>
<th>Bill Number</th>
<th>Sponsor</th>
<th>Sponsor's Name</th>
<th>Description</th>
<th>Vote Status</th>
<th>Passed/Failed</th>
<th>Public Chapter</th>
</tr>
</thead>
<tbody>
<tr>
<td>SB0102</td>
<td>Norris</td>
<td>McCormick</td>
<td>Unemployment insurance bill encouraging the electronic submission of records and authorizes individuals or entities to correspond with the department of labor and workforce development through electronic means.</td>
<td>SUPPORT</td>
<td>PASSED</td>
<td>95</td>
</tr>
<tr>
<td>SB0105</td>
<td>Norris</td>
<td>McCormick</td>
<td>As introduced, administration bill that revises various provisions of the 2013 Workers’ Compensation Law. After reviewing the proposal the chamber HR committee voted to support.</td>
<td>SUPPORT</td>
<td>PASSED</td>
<td>341</td>
</tr>
<tr>
<td>SB0311</td>
<td>Tate</td>
<td>Gilmore/Harris/Gilmore/Tate</td>
<td>For employment purposes prohibits a business from reporting a criminal offense that has been expunged for six months or longer when completing background checks. Prohibits certain employers from asking an applicant to disclose conviction history until it is determined that the applicant meet the minimum employment qualifications for the position. Creates a civil offense against the employer for each separate offense.</td>
<td>OPPOSE</td>
<td>FAILED</td>
<td></td>
</tr>
<tr>
<td>Bill Number</td>
<td>Sponsor</td>
<td>Description</td>
<td>Action</td>
<td>Result</td>
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<tr>
<td>SB0378</td>
<td>Ketron Moody</td>
<td>Prohibits employers from terminating employees who are canine search and rescue volunteers solely because the employee was absent from, or late to, work in order to respond to a search and rescue operation.</td>
<td>OPPOSE</td>
<td>FAILED</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SB0403</td>
<td>Green Pitts</td>
<td>Allows private employers to establish a preference policy for hiring certain veterans, spouses of veterans, and widows and widowers of veterans.</td>
<td>DEFER</td>
<td>FAILED</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SB0475</td>
<td>Bell Holt</td>
<td>Bill clarifies for union organizing purposes the distinction of a franchisee and their employees. This legislation is in response to recent NLRB anti-business proposals.</td>
<td>SUPPORT</td>
<td>PASSED Public Chapter 114</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SB0653</td>
<td>Kyle Stewart</td>
<td>Union legislation drastically increasing TOSHA penalties against business for conditions that are deemed to endanger the health and safety of employees where the employer knows or has reason to know of the condition.</td>
<td>OPPOSE</td>
<td>FAILED</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SB0659</td>
<td>Kyle Hardaway</td>
<td>Establishes a state minimum wage that increases annually for employees in the service industry who receive tips and employees that are compensated solely by gratuities. Chamber members prefer a national standard for compliance.</td>
<td>OPPOSE</td>
<td>FAILED</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SB0662</td>
<td>Kyle Fitzhugh</td>
<td>Requires all employers to provide employees four hours of leave, each year for parental involvement in schools, and establishes a private cause of action for employer violations.</td>
<td>OPPOSE</td>
<td>FAILED</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SB0663</td>
<td>Kyle Fitzhugh</td>
<td>Bill would lead to the establishment of an employer paid family and medical leave program.</td>
<td>OPPOSE</td>
<td>FAILED</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SB0721</td>
<td>Green Durham</td>
<td>Enacts the &quot;Tennessee Employee Injury Benefit Alternative.&quot; The bill would establish an alternative workers' compensation benefit program for certain employers.</td>
<td>DEFER</td>
<td>FAILED</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SB0864</td>
<td>Kyle Clemons</td>
<td>Bill established the &quot;Tennessee Pay Equality Act.&quot; Requiring all employers to establish gender pay schedules and create a special legal remedy to enforce the bill against employers.</td>
<td>OPPOSE</td>
<td>FAILED</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SB1063</td>
<td>Harris Turner</td>
<td>Would have established a state minimum hourly wage rate at not less than $10.10 per hour. Chamber members prefer a national standard for compliance.</td>
<td>OPPOSE</td>
<td>FAILED</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SB1066</td>
<td>Harris Fitzhugh</td>
<td>Established additional requirements for employers to enhance the leave statute for adoption, pregnancy, and childbirth. Bill also created additional reporting and legal cause of action against business.</td>
<td>OPPOSE</td>
<td>FAILED</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SB1067</td>
<td>Harris Fitzhugh</td>
<td>As introduced, enacts the &quot;Making Work Pay Act&quot; establishing pay mandates for various workers.</td>
<td>OPPOSE</td>
<td>FAILED</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SB1159</td>
<td>Massey Hill</td>
<td>As introduced, enacts the &quot;Tennessee Pregnant Workers Fairness Act.&quot; Establishing in addition to federal requirements additional state mandates and legal remedies against employers.</td>
<td>OPPOSE</td>
<td>FAILED</td>
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</tr>
</tbody>
</table>

**REGULATIONS/MANDATES**

<table>
<thead>
<tr>
<th>Bill Number</th>
<th>Sponsor</th>
<th>Description</th>
<th>Action</th>
<th>Result</th>
</tr>
</thead>
<tbody>
<tr>
<td>SJR0002</td>
<td>Norris</td>
<td>Urges the United States Congress to propose the &quot;Regulation Freedom Amendment&quot;, which would require that when one quarter of the members of the United States House of Representatives or Senate oppose a proposed federal regulation, it shall require a majority vote in both houses to be adopted.</td>
<td>SUPPORT</td>
<td>PASSED</td>
</tr>
<tr>
<td>SB0065</td>
<td>Stevens Kane</td>
<td>Bill mandating the use of non-OEM aftermarket crash parts in the repair of an insured’s or third-party claimant’s motor vehicle.</td>
<td>OPPOSE</td>
<td>FAILED</td>
</tr>
<tr>
<td>SB0467</td>
<td>Bell Daniel</td>
<td>Alters certain provisions regarding the rulemaking process provided in the Uniform Administrative Procedures Act (UAPA). Requires the government operations committees to review every rule promulgated pursuant to the UAPA.</td>
<td>SUPPORT</td>
<td>PASSED Public Chapter 502</td>
</tr>
<tr>
<td>SB0817</td>
<td>Tracy Marsh</td>
<td>Increases maximum weight limits of axles and axle groups for permitted, overweight loads on freight vehicles.</td>
<td>SUPPORT</td>
<td>PASSED Public Chapter 393</td>
</tr>
<tr>
<td>Bill</td>
<td>Sponsor</td>
<td>Description</td>
<td>Status</td>
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<tr>
<td>SB0960</td>
<td>Kyle Stewart</td>
<td>Revises the definition of &quot;autism spectrum disorder&quot; and the required insurance coverage of autism spectrum disorder raising insurance costs for business.</td>
<td>OPPOSE FAILED</td>
<td></td>
</tr>
<tr>
<td>HB1017</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>SB1223</td>
<td>Bell Sexton</td>
<td>Establishes requirements and protections for healthcare providers that practice telehealth. Employers can now use telehealth services more readily for employees.</td>
<td>SUPPORT PASSED</td>
<td></td>
</tr>
<tr>
<td>HB0699</td>
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<tr>
<td>SB0059</td>
<td>Green C. Sexton</td>
<td>Changes the statutory apportionment formula for all business used to calculate franchise and excise taxes from a three-factor formula to a single-sales-factor formula.</td>
<td>DEFER FAILED</td>
<td></td>
</tr>
<tr>
<td>HB0423</td>
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<tr>
<td>SB0106</td>
<td>Norrish McCormick</td>
<td>As introduced, extends the effective date of the streamlined sales and use tax agreement legislation from July 1, 2015, to July 1, 2017; makes various revisions to sales tax and other tax provisions.</td>
<td>DEFER PASSED</td>
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<tr>
<td>HB0095</td>
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<tr>
<td>SB0322</td>
<td>Norris McCormick</td>
<td>As introduced, revises a number of ECD incentives and expands sales and use tax exemption for R&amp;D equipment. Requires commissioners of economic and community development and revenue to evaluate certain tax credits and report to the General Assembly.</td>
<td>SUPPORT PASSED</td>
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<tr>
<td>HB0291</td>
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<tr>
<td>SB0324</td>
<td>Norris McCormick</td>
<td>Revises formula for calculating the excise and franchise taxes for tax years beginning on or after July 1, 2016, by multiplying the receipts factor by three and increasing the denominator of the fraction to five.</td>
<td>SUPPORT FAILED</td>
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<tr>
<td>HB0213</td>
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<tr>
<td>SB0346</td>
<td>Tate Akbari</td>
<td>Creates a community resurgence job tax credit against franchise and excise tax liability for a qualified business in the amount of $2,500 for each qualifying job created.</td>
<td>SUPPORT PASSED</td>
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<tr>
<td>HB1026</td>
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<tr>
<td>SB0354</td>
<td>Bailey C. Sexton</td>
<td>Creates the Public Highway Maintenance Act of 2015. Establishes surcharge at the rate of 13 cents per gallon of diesel fuel. Requires operators of commercial vehicles that have a weight rating over 59,999 pounds to pay a highway maintenance fee of 2.85 cents per mile.</td>
<td>OPPOSE FAILED</td>
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<td>HB0422</td>
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<tr>
<td>SB0603</td>
<td>Norris McCormick</td>
<td>Enacts the &quot;Revenue Modernization Act&quot; making a number of significant changes to nexus, business taxes, establishing market sourcing, sales tax changes and modifies Tennessee’s apportionment formula from double weighting of sales to triple weighting of sales for calculating excise taxes.</td>
<td>DEFER PASSED</td>
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<td>HB0644</td>
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<tr>
<td>SB0972</td>
<td>Dickerson Powell</td>
<td>Enacts the &quot;For-Profit Benefit Corporation Act&quot; allowing business to organize for social or beneficial purposes.</td>
<td>SUPPORT PASSED</td>
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<td>HB0767</td>
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<tr>
<td>SB0982</td>
<td>Norris M. White</td>
<td>Bill capped the amount of aviation fuel taxes that any one taxpayer is required to pay. Bill was supported by Governor Bill Haslam and his administration.</td>
<td>DEFER PASSED</td>
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<td>HB1147</td>
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<tr>
<td>SB1278</td>
<td>Kelsey Sparks</td>
<td>Bill limited state and local government tax credits or incentives awarded to companies using subcontractors. Chamber opposed this bill.</td>
<td>OPPOSE FAILED</td>
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<td>HB1297</td>
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<tr>
<td>SB1313</td>
<td>McNally Eldridge</td>
<td>Bill would have authorized qualified manufacturing taxpayers that meet certain investment, job creation, and other criteria to use the Single Sales Factor apportionment formula for calculating net earnings for excise tax purposes.</td>
<td>SUPPORT FAILED</td>
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<td>HB0559</td>
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<tr>
<td>SB1333</td>
<td>McNally Matlock</td>
<td>Establishes sales and use tax exemption for co-generation energy equipment used by a manufacturing facility. Application of the credit was limited to a location in a non-attainment area with a minimum capital investment.</td>
<td>SUPPORT PASSED</td>
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<tr>
<td>HB1320</td>
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CHAMBER PREVIEW: 2016 ISSUES FACING BUSINESS IN TENNESSEE

Tennessee Chamber Government Affairs Team: Bradley Jackson, Amy Martin, Frankie Anderson

The Tennessee Chamber of Commerce and Industry (TCCI) government affairs team knows the importance of planning and preparing for upcoming issues. Similar to the businesses you operate, we are constantly working to monitor new developments so we can strategically ensure the business community is prepared with solutions. As in other areas in business, government is yet another risk that must be mitigated. Below are some of the most important issues that we anticipate coming up next year.

State Budget Infrastructure — We expect continued discussion around addressing Tennessee’s long term infrastructure needs. The Tennessee Chamber supports this initiative as good infrastructure must keep up with our growing economy and allow for continued growth. Chamber members have noted that good roads are essential for transporting goods across our state. Chamber members have expressed support for enhanced funding for our road systems. The question remains how much and will legislative leaders be willing to address this issue in an election year? The Chamber’s focus in this area: 1) Ensure any increase in road funds are used solely for transportation funding and not general government operations; 2) Avoid bonding or financing of road projects: Tennessee must remain a pay-as-you-go funding state, avoiding the use of costly long term bonds for funding needs; 3) Chamber is opposed to any built-in increases in transportation funding and will be monitoring this and the range of proposed increases. Ranges that are too high may lead to Chamber concerns.

Education — We anticipate that educational and workforce issues will remain a central focus for Governor Haslam and the legislature. Business and educational leaders note that the lack of workforce preparedness, if not addressed, could prove to be a roadblock for Tennessee’s future economic growth. We expect that all parts of the Governor’s Drive to 55 agenda including Tennessee Promise and Tennessee Reconnect (which are now entering their implementation phase) will be looked at closely and may require additional tweaks or changes to ensure their success. We also expect more deliberation around Tennessee Standards and focus on STEM initiatives, which the Chamber supports. The Chamber is also seeing movements around the country to opt-out of individual testing or assessments. The Chamber’s position on this issue is to work to ensure that student assessments allow educators to accurately determine the progress students are making.

Business Taxes — Despite significant activity around business taxes this year, we expect continued discussion to enhance state revenue from business tax collections. The Chamber supports the single sales factor opt-in program for manufacturers in Tennessee and will continue our work to ensure existing manufacturers are treated fairly. This year the legislature moved toward this goal in a compromise, adopting triple weighting of sales from double weighting, which was established in 1998. This is especially important as many other states have enacted single sales factor for manufacturers.

Influence of outside groups — The Chamber and other Tennessee business trade associations and groups are increasingly impacted by outside organizations that weigh in on issues in Tennessee. With significant spending power, these groups often have agendas that run counter to Tennessee business organizations. Recent changes in election finance and spending laws have given these groups greater opportunity to engage in Tennessee through independent expenditures. The Chamber is working to develop a number of programs to enhance our influence and include our BIPAC or Tennessee Business votes program, focused PAC coordinating activities and stronger utilization of our existing grassroots information and communication efforts.

Workers’ Compensation — There will be continued discussion around a proposed opt-out workers’ compensation system for select employers. Senator Mark Green (R-Clarksville) has introduced legislation to give employers this option and has noted his intentions to continue work around this issue. Labor unions and attorney groups have opposed these proposals. The Tennessee Chamber has not weighed in on this as an organization but we have many Tennessee businesses that are supportive of the proposal. Other members have expressed caution of any disruptions that occur with the insurance market and have requested specific cost savings information from the Tennessee reforms passed in 2013. We have heard discussions around the Tennessee Workers’ Compensation Division conducting summer hearings to gauge employer feedback from the 2013 reforms.

EPA actions — The EPA is considering many rules (i.e. The Clean Power Plan, Waters of the US, and Ozone) that directly impact Tennessee in the air and water permit areas. The Tennessee Department of Environment and Conservation (TDEC) will have opportunities to weigh in on these proposals and ultimately will be responsible to implement these changes. Many of these proposals have the potential to directly harm economic development and existing companies in Tennessee with air and water permits. Chamber members also believe that all EPA proposals should include an economic evaluation of these proposals so the true impact on Tennessee business is determined and considered. Note: The rule for Waters of the US was recently released. Because of the significant concerns regarding the final rule, on July 13th, TCCI, in coordination with several business groups, requested the Attorney General’s office to pursue legal action to defend the state’s sovereignty over Tennessee’s waters.

Policy requests: Social issues — Increasingly, narrow interest groups target individual business and organizations like the Chamber to weigh in on social issues. The Tennessee Chamber works hard to stay out of anything that is deemed a social issue that creates equally adamant opposition against our organization and member companies. We hear mostly from business that advocacy around these issues is better outside of the legislative process.
The Tennessee Gas Association (TGA) hosted a compressed natural gas (CNG) across Tennessee rally during the week of May 18 – 22, 2015, with stops in: Memphis, Trenton, Nashville, Athens, and Sevierville.

The goal of this rally was to educate all Tennesseans about the benefits and the availability of natural gas as a vehicle fuel and its importance to our environment.

At the Trenton event, TN Chamber president, Catherine Glover was one of a handful of Tennessee community leaders that was honored with a recognition award, in appreciation of her support and contribution to the success of promoting CNG in Tennessee.

“This statewide effort serves to promote this growing industry and inform the public that a natural gas vehicle from a passenger vehicle to a large fleet can drive across the state of Tennessee on compressed natural gas” said Pat Riley, organizer of the event.
Each legislative session, the Tennessee Chamber works hard to deliver tangible cost savings results for our members. We work every day to protect business from increased costs and mandates debated in the halls of the Capitol and our results produce substantial savings each year.

Most importantly for a number of Chamber members are the numerous sales tax exemptions that exist to help business. Many of these exemptions listed below were placed into statute many years ago through the advocacy of the Tennessee Chamber. We believe these are crucial to maintaining a strong and productive business climate that contributes to the growth of our economy. Many members consider our advocacy in defending these exemptions one of their most valuable assets of being a member.

These exemptions alone result in savings to business of $3.2 billion annually, if the legislature were to tax them at 7%, the current sales tax rate.

In addition to working to maintain these exemptions, the Chamber worked on many other bills in 2015 that positively impacted business’ bottom line.

The Revenue Modernization Act (Public Chapter 514) as introduced would have cost business over $45 million in additional recurring taxes. The Chamber worked to make significant changes to this bill that lowered the impact of the bill to $8 million. At the request of a number of member companies, the Chamber worked to implement triple weighting of sales apportionment for Tennessee companies for the excise tax liability. The legislature’s fiscal review assessment notes that the changes fought for by the Chamber will save business $33 million dollars annually.

The Tennessee Chamber worked to implement changes (Public Chapter 292) to the underground storage tank reclamation fund that will increase payments to business for leaks. The Chamber estimates that these changes will result in increased payments to business who must use the fund by $1.6 million.

HB 483 would have substantially increased TOSHA penalties costing business $11 million annually. The Chamber opposed this bill and stopped its passage. A number of other mandates were stopped this year that would have created numerous causes of action against employers for protected categories of employees. We estimate the demise of these bills saved business millions of dollars from having to defend frivolous lawsuits.

The Tennessee Chamber worked to implement changes (Public Chapter 292) to the underground storage tank reclamation fund that will increase payments to business for leaks. The Chamber estimates that these changes will result in increased payments to business who must use the fund by $1.6 million.

The Tennessee Reconnect Program (Public Chapter 363) will save $1.5 million for employers, as the state will pick up the cost of students going back to school to obtain a degree.

Telehealth bill (Public Chapter 261) supported by the Tennessee Chamber will reduce lost time for employees for doctor visits. Chamber staff estimates this will save Tennessee employers up to $1 million annually.

Workers’ Compensation reforms initiated by the Chamber in 2013 are expected to result in cost savings for employers. Already the National Council on Compensation Insurance (NCCI) has noted they expect premiums to decrease by 20% after the full effect of the 2013 reforms take place. The Chamber estimates this will save business millions of dollars each year while maintaining a workers’ compensation benefit program that ensures fair medical treatment and compensation following a workplace injury.

Overall the Chamber estimates our impact on the 2015 session saved employers over $51.7 million!

*All cost impacts are from official fiscal notes produced by the Legislative Fiscal Review staff, tax information is from the Senate and House Finance Ways and Means Committee research.
Recently, Jackson Lewis, P.C. partnered with the Tennessee Chamber of Commerce & Industry to offer seminars to inform employers about the importance of understanding workplace bullying. Workplace bullying cannot be ignored. According to the Workplace Bullying Institute’s (“WBI”) 2014 survey, 27 percent of Americans have current or past direct experience with what they perceived to be abusive conduct at work. Ignoring workplace bullying can lead to unnecessary medical costs and workers’ compensation claims for such physical effects as cardiovascular conditions and anxiety. Bullying also can decrease productivity, lower morale, increase turnover, and worsen customer/client relations.

Many states have introduced bills that address abusive conduct in the workplace, but getting them passed has proved a major hurdle. One of the challenges of addressing the problem is defining bullying itself, especially due to its subjective nature.

The WBI defines workplace bullying as “repeated, health-harming mistreatment of one or more persons by one or more perpetrators.” It is abusive conduct that is threatening, intimidating, humiliating, or otherwise interferes with one’s work. It can include verbal or physical abuse, or even more subtle forms of mistreatment, such as isolation, exclusion, or quiet sabotage. At the moment, “bullying” is not specifically actionable in a lawsuit on its own. However, employers may see claims of discriminatory harassment on the basis of a protected class, assault and battery, or infliction of emotional distress/mental anguish.

On June 3, 2014, Tennessee became the first state to enact an anti-bullying law that applies only to public employers. The Tennessee Chamber and other business groups fought successfully to ensure that private employers were not included in the legislation. The Tennessee Healthy Workplace Act (“THWA”) defines abusive conduct as repeated verbal abuse, threats, intimidation, humiliation, or work sabotage. It creates an incentive for public sector employers to adopt a policy on bullying—either a model policy or one that assists employers in recognizing and responding to bullying and prevents retaliation. The Tennessee Advisory Commission on Intergovernmental Relations drafted a model anti-bullying policy, which provides for a complaint and investigation procedure, and emphasizes that anyone who uses it or participates in an investigation will not be retaliated against for doing so.

So far, there are no Tennessee laws that specifically address bullying with respect to private employers; however, bullying-related legislation is picking up momentum. Given the substantial overlap between bullying and harassment—two concepts often defined in similar terms—it would be prudent for private employers to examine their harassment policies to ensure that internal complaint and investigation procedures adequately protect employees with respect to abusive conduct in the workplace. Having an effective policy that addresses harassment, discrimination, and abuse in the workplace can be crucial in defense of claims arising from workplace abusive conduct. If drafted and enforced properly, it can significantly reduce litigation risk and exposure, particularly in abusive conduct cases where potential damages can be high.

In dealing with these issues, it is important to 1) learn to recognize the signs of bullying; 2) make an honest assessment of your workplace; and 3) ensure that effective policies that address bullying are in place and effectively enforced.
LABOR UPDATE: U.S. CHAMBER AND TENNESSEE CHAMBER PARTNER TO KEEP TENNESSEE A BUSINESS FRIENDLY STATE

By Lana Johnston, Waller

Three legislative sessions ago, the U.S. Chamber of Commerce engaged Waller to be the face of the Workforce Freedom Initiative (WFI) in Tennessee. In fact, over the years, Tennessee has become one of the Chamber’s model states for passing business friendly legislation that protects employers’ free speech rights as well as employees’ freedom of choice. The Workforce Freedom Initiative (WFI), a division of the U.S. Chamber, works tirelessly to track anti-competitive, bad for business labor agendas across the United States. In anticipation of national trends, WFI introduces state legislation aimed at protecting America’s free enterprise system.

Just this year, WFI closely monitored a pending decision with the National Labor Relations Board (NLRB) that would negatively impact, and more than likely totally dismember, the franchise business structure. Specifically, the NLRB is currently considering a more ambiguous test for determining the joint employer in the franchise relationship, one that could potentially hold the franchisor as the employer of the franchisee’s employees. The likely effect would be devastating to small business owners, who could lose control of the independent operations they worked so hard to build.

As a response to the pending NLRB decision, and to curtail the effects of the likely NLRB interpretation, WFI went on the offensive in Tennessee. During the 109th General Assembly, WFI passed an important bill which preserves the 30 year long franchising model, ensuring that small businesses continue autonomous operations within the franchising relationship. The bill, signed into law by Governor Haslam on April 10, 2015, specifies that in the franchise relationship, the business relationship is evaluated, for state law purposes, according to the current definition of joint employer, after a case by case finding of direct control.1 Therefore, even if the NLRB applies a more ambiguous standard in order to hold the franchisor the ultimate employer of the franchisee’s employees, Tennessee will follow the well-established precedent and protect small business operations under the franchise model.

During the past several years, WFI has also ensured that State of Tennessee operates fairly when procuring and negotiating services with private businesses. WFI has introduced and passed legislation prohibiting the state government from requiring or preferring labor agreements by conditioning any transactions, government requirements, enacting any ordinance or regulation with an employer, on the condition that the employer enter into a labor agreement with a union, or an employer relinquish their rights under Federal law.2 WFI also made sure that in Tennessee, the state could not prefer, discriminate against, or require contractors to enter into labor neutrality agreements in order to participate in bidding or signing a public contract.3

Finally, WFI has also passed legislation protecting business property rights. Tennessee law now provides a means for companies to expeditiously eject trespassers off their property, minimizing loss of time and money when dealing with trespassers. 4

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3 2013 Tenn. Pub. Acts ch. 335

TENNESSEE LEGISLATURE ENACTS NEW PROTECTION FOR EMPLOYEES WITH VALID HANDGUN CARRY PERMITS

By Bill Ozier, Bass, Berry & Sims, PLC

One of the bills passed during the 2015 legislative session as Public Chapter No. 80 creates a new protected status for employees who possess a valid handgun carry permit recognized in Tennessee. The bill was opposed by the Tennessee Chamber and other private business and employer groups. The statute prohibits an employer from discharging or taking any adverse action against an employee solely for transporting or storing a firearm or ammunition in an employer parking area, provided that the employee complies with the provisions of the “Guns in Trunks” legislation passed in 2013. (T.C.A. § 29-17-1313(a)). Under the new Act, the employee has the burden of establishing that he was terminated or suffered an adverse employment action “based solely on the employee's transporting or storing a firearm or ammunition in the employer's parking area.” 5 If the employee makes out a prima facia case, the burden shifting process utilized by the courts in discrimination cases based on other protected categories, such as race, gender, religion, etc. then applies. An employee who successfully proves that he or she was terminated or suffered an “adverse employment action,” is entitled to recover “economic damages” plus reasonable attorneys’ fees and costs. Based on that definition, there would be no recovery for compensatory damages such as humiliation, embarrassment or emotional distress. The successful employee would also be entitled to recover his or her attorneys’ fees and costs.

Although the “Guns in Trunks” legislation passed in 2013 gave employers the right to require employees who bring firearms onto the company’s property to park in specifically designated areas, it left open the question as to whether an employer could require an employee to disclose the fact that he or she had a valid handgun carry permit, or had a handgun in his or her vehicle on the company’s property. With the passage of this new statute, employers may be better off not knowing who has a permit or has brought a handgun onto company property. The employee will have the burden of proving that the employer “knew” that he or she possessed a handgun carry permit or brought a handgun onto the company’s property, as the first step in attempting to prove that any adverse action taken against that employee was taken “solely” because of those facts. As long as the employer has legitimate reasons for taking disciplinary or any other adverse action against an employee, proving that such action was taken “solely” because the employee happened to have a handgun in his or her vehicle will be extremely difficult, especially if the employee cannot show that the employer had knowledge of the employee’s possession of a carry permit or actually brought a handgun onto the employer’s property.

The Tennessee Chamber will be offering seminars with Bass, Berry and Sims over the summer and fall to inform employers about this and other employment law changes.
Program Elements

• Complete Turnkey service for used Antifreeze/coolant collection and new antifreeze/coolant delivery.

• Quality products made from reclaimed Ethylene Glycol, pure water and utilizing the best additives in the business.

• Pre-mixed to a 50/50 blend of Ethylene Glycol and water. The ready to use antifreeze/coolant provides proper freeze and boil protection.

Benefits

• Service tailored to your company’s needs.

• Used antifreeze collected, transported and recycled by a leading Environmental Services company.

• No need to measure or mix for proper freeze / boiling points.

Crystal Clean capabilities include:

• Solvent Parts Cleaning
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www.crystal-clean.com
TENNESSEE SCHOLARS CELEBRATES TWELVE YEARS OF SUCCESS... NOW IN ALL 95 COUNTIES

By Ruth Woodall

Tennessee Scholars began in 1994 to address Tennessee’s “lack of a qualified workforce.” Leaders from the Kingsport area met to take a look at the skills applicants needed for employment and developed the Tennessee Scholars model that has now been replicated in all 95 counties for public, private and home schools.

In 2003, the Tennessee Chamber of Commerce received a grant to bring the program out of the pilot stage and extend it to all schools in Tennessee. With strong commitments from all levels of government and the private sector (and after 12 years of implementation) this model continues to communicate to students the importance of preparing early for post-secondary and workforce success. Success for a Tennessee Scholar begins in the 9th grade with a strict academic course of study rich in math, science, engineering, technology and critical thinking. By motivating them to stretch their academic muscles during high school, the Tennessee Scholars program ensures that they will have the skills and knowledge they need to be successful after graduation.

The Tennessee scholars program helps to accomplish this goal by:
• Helping local partnerships build district and community support for the Scholars Initiative.
• Identifying the decision point when students can choose a rigorous course of study.
• Training business leaders to present information to students prior to this decision point.
• Working with business leaders and educators to create an infrastructure that supports student decisions.
• Recognizing Scholars who complete the course of study.

Requirements

Tennessee Scholars represents an important step to ensure all students have access to a relevant, quality education. With information and encouragement from business leaders, parents, and community volunteers, middle and high school students are encouraged to graduate as a Tennessee Scholar through meeting the following requirements:

<table>
<thead>
<tr>
<th>Subject Requirement</th>
<th>Credits Required</th>
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<tbody>
<tr>
<td>4 years of math</td>
<td>4 years English</td>
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<tr>
<td>Physical Education</td>
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<tr>
<td>Social Studies</td>
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<td>Foreign Languages</td>
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<td>Advanced Placement</td>
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<td>Professional Ethics</td>
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<tr>
<td>Leadership</td>
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<tr>
<td>Community Service</td>
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<tr>
<td>Independent Study</td>
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<tr>
<td>Electives</td>
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</table>

4 years of math (regular math does not count for the 4th year of math, SAILS math only counts for 4th math)
3 Lab Sciences (Biology and Chemistry required)
1 Fine Arts
Personal Finance or Equivalent
2 additional classes of student’s choice
No suspensions from school
Maintain at least a C average in all courses

Governor Haslam congratulates Tennessee Scholars

TENNESSEE SCHOLARS CELEBRATES TWELVE YEARS OF SUCCESS... NOW IN ALL 95 COUNTIES

By Ruth Woodall

First Tennessee Scholar Graduate from Tennessee School for the Blind.

Alyssa Loggins: Alyssa graduates from TSB as the Valedictorian. She is a recipient of the Provost (full tuition) Scholarship at Fisk University. Alyssa completed Dual Enrollment with Volunteer State for English, maintaining a 4.0 GPA. She took additional science courses like Chemistry, Biology I and II, Scientific Research I and II, and Physical Science. Alyssa took advanced math in Pre-Calculus to satisfy her S.T.E.M. studies. She received a composite score of a 26 on the ACT. Alyssa resides in Memphis, TN. She transferred from Alabama School for the Blind in 2013. Alyssa plans to major in psychology and ultimately pursue a career as a child and adolescent psychologist.
Data and Impact

<table>
<thead>
<tr>
<th>Data</th>
<th>2003</th>
<th>2015</th>
<th>Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACT Average</td>
<td>21</td>
<td>24.2</td>
<td>Greater number of options for post-secondary. More scholarships.</td>
</tr>
<tr>
<td>School</td>
<td>Public only</td>
<td>Public, Private, Home</td>
<td>Open to any child</td>
</tr>
<tr>
<td>GPA</td>
<td>2.9</td>
<td>3.34</td>
<td>More options for schools and careers</td>
</tr>
<tr>
<td>Volunteer hours average per student</td>
<td>50</td>
<td>160</td>
<td>Saved the state of TN more than $77,000,000 through volunteer service hours</td>
</tr>
<tr>
<td>Number of Tennessee Scholars</td>
<td>89 in class of 2014</td>
<td>4100 in 2015 class</td>
<td>More than 35,000 TN Scholars have been recognized for their success in high school.</td>
</tr>
<tr>
<td>Number of participating counties</td>
<td>2</td>
<td>We have participating schools in all 95 counties</td>
<td>Better prepared students</td>
</tr>
</tbody>
</table>

Collaboration among parents, business, educators, and policy makers has proven to be the key ingredient to motivating students to choose this course of study and meet the additional expectations required to be a Tennessee Scholar. With the help of local chambers, business partners and other non-profits we are sustaining this program in all implemented schools and are facilitating the implementation with more schools each year.

Tennessee Scholars can now attend any Tennessee Technology Center with extra financial assistance beyond Tennessee Promise with other scholarships offered by Union University, Trevecca University, Cumberland University, Lee University, Bryan College, and ETSU in Johnson City. Also, many businesses offer preferential job hiring.

Tennessee Scholars is recognized by Governor Haslam, the Tennessee Department of Education, Tennessee State School Board Association, Tennessee Board of Regents, and many other organizations and associations as an exemplary program for graduation.

How You Can Help Tennessee Scholars

Thank you to all who have contributed in some way to the success of this program. The sustainability of this program depends upon funding from corporate, individual, foundation, and private dollars and from your volunteer efforts. For the past 12 years, many have given time, talent, and money to help us communicate the expectations of post-secondary education and the workforce to students. Tennessee Scholars has had phenomenal results, but the need to continue implementation and encourage sustainability is crucial. The mindset of parents, educators, business and students toward the need for a more rigorous path toward graduation must be changed. In order to continue the success of the Tennessee Scholars program, we encourage you to donate. Please go to https://tnchamber.org/donate-to-tennessee-scholars/ and give today.

For more information or to request a speaker for your event, please contact Ruth Woodall, AVP for Education and Workforce Development, at ruth.woodall@tnchamber.org or 615-256-5141. Visit our website at www.tennesseescholars.org.
33rd Annual Environment & Energy Awards Conference

October 14-15, 2015
Montgomery Bell State Park

*Sponsorship opportunities are available. Please contact Suzie Lusk (suzie.lusk@tnchamber.org)

**Award nomination forms will be sent out early August

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Platinum Sponsor: $10,000
ONE slot available

Benefits:
• EIGHT conference tickets
• Company logo will be featured on 5,000 promotional pieces
• Company will receive a full-page ad in the day-of program; distribution of 1,000
• Logo recognition via email (200,000 prospects), print material and online via all related websites with a link back to your company’s site
• Exclusive opportunity to welcome and introduce Keynote speaker
• Press release sponsor recognition/coverage
• SME scholarship awarded in the company’s name

Gold Sponsor: $5,000
Two Opportunities Available
Category exclusive: Breakfast OR Lunch Sponsor

• Four conference tickets
• One table top/booth display for the duration of the event day
• Shared logo recognition
• Half-page ad in the day-of program; distribution of 1,000

Option 1 – Breakfast
• Table distribution of sponsor material
• Sponsor welcome and introduction at breakfast

Option 2 – Lunch
• Keynote introduction (at planetarium)
• Boxed lunches for ALL registrants with company logo
• Centralized location for distribution of lunches

Silver Sponsor: $1,000
Non-exclusive but limited opportunities – TWO options available as a sponsor at this level

BOTH options receive: Company name included on 5,000 promotional pieces; Company will be included on the day-of program (distribution of 1,000); Logo recognition via email (200,000 prospects), print material and online via all related websites with a link back to your company’s site

• Option 1 – One booth for the duration of the event AND two conference tickets (Extremely limited availability)
• Option 2 – Five ticket bundle (Limited based on ticket availability)

Bronze Sponsor:
Non-profit partners and others: Give us a call to find out other ways to sponsor and engage with attendees! Sponsorship includes recognition in materials. Help us spread the word!

National Manufacturing Day: October 2, 2015
Adventure Science Center • 800 Fort Negley Blvd. • Nashville, TN 37203
A well-maintained lawn provides significant benefits to the environment. These benefits can include:

- **Cleaner water** — healthy turf acts as a water filter and prevents runoff
- **Fresh air** — lawns trap 12 million tons of dust and dirt annually in the U.S.
- **Healthier soil** — grass encourages the growth of beneficial organisms, such as earthworms, soil microbes and useful insects
- **Lower outdoor temperatures** — turf can eliminate up to 50% of the heat that strikes it
- **Reduced greenhouse gases** — lawns pull in greenhouse gases and reduce carbon dioxide
- **Oxygen generation** — a 50 foot by 50 foot lawn releases enough oxygen for a family of four on a daily basis

Healthy lawn. Healthy life.
<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
<th>Training Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 30</td>
<td>Industrial Air Regulations</td>
<td>Nashville</td>
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<tr>
<td>August 4</td>
<td>GHS &amp; Hazard Communication</td>
<td>Jackson</td>
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<td>August 5</td>
<td>Recordkeeping</td>
<td>Memphis</td>
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<tr>
<td>August 6</td>
<td>Basic Safety</td>
<td>Memphis</td>
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<tr>
<td>August 12</td>
<td>GHS &amp; Hazard Communication</td>
<td>Nashville</td>
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<td>August 19-21</td>
<td>TCCE Annual Membership Conference</td>
<td>Nashville</td>
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<td>August 26</td>
<td>Industrial Air Regulations</td>
<td>Knoxville</td>
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<tr>
<td>September 1</td>
<td>Recordkeeping</td>
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<td>September 2</td>
<td>GHS &amp; Hazard Communication</td>
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<td>September 3</td>
<td>Recordkeeping</td>
<td>Mt. Juliet</td>
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<td>September 9</td>
<td>Basic Safety</td>
<td>Murfreesboro</td>
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<td>September 10</td>
<td>Forklift Safety</td>
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<td>September 16</td>
<td>Basic Safety</td>
<td>Morristown</td>
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<td>September 17</td>
<td>Combustible Dust</td>
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<td>September 16-18</td>
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<td>September 22</td>
<td>Basic Safety</td>
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<td>September 24</td>
<td>2015 Business Tax Workshop</td>
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<td>September 30</td>
<td>Maintenance Related TOSHA</td>
<td>Dyersburg</td>
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<td>October 2</td>
<td>Tennessee’s Annual Manufacturing Excellence Summit</td>
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<td>October 6</td>
<td>Maintenance Related TOSHA</td>
<td>Kingsport</td>
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<td>October 7</td>
<td>Forklift Safety</td>
<td>Johnson City</td>
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<td>October 8</td>
<td>Maintenance Related TOSHA</td>
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<td>October 14-15</td>
<td>Environment &amp; Energy Conference</td>
<td>Montgomery Bell State Park</td>
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<td>October 20</td>
<td>Maintenance Related TOSHA</td>
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<td>October 26</td>
<td>Tennessee Chamber Golf Tournament</td>
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<td>November 17-20</td>
<td>30 Hour General Industry Course</td>
<td>Murfreesboro</td>
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<td>December 2</td>
<td>Confined Space for Construction</td>
<td>Johnson City</td>
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<tr>
<td>December 8</td>
<td>Dock &amp; Warehouse Safety</td>
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</tbody>
</table>

The Tennessee Chamber provides access to business and political decisionmakers, educational events, updated government policies, influence on Capitol Hill to shape policies in support of a favorable business climate and protection against unfavorable legislation and bureaucracy.