

The Tennessee Journal

The weekly insiders newsletter on Tennessee government, politics, and business

Vol. 43, No. 2
January 13, 2017

We all know what goes up (we think), but what comes down?

A hot topic of legislative speculation for weeks has been how big a gasoline tax hike Gov. Bill Haslam will propose. But lately discussion has turned to what the governor might recommend on the tax-cutting side of the ledger to make a gas tax hike more politically palatable.

House Speaker Beth Harwell said this week she expects any gasoline tax increase the legislature approves will be offset with cuts. And Haslam long has said he is open to the idea of a “revenue neutral” approach, though he hasn’t spelled out what that means.

He may soon, though. Last week, the governor said he expected to present his transportation funding plan in the next two weeks. And it didn’t happen this week.

He likely will unveil a comprehensive plan next week, including a hike in the 21.4-cents-per-gallon gasoline tax rate, which hasn’t been increased since 1989 — despite the fact that cars now get more miles per gallon while road construction and maintenance costs are higher. While the state enjoys a surplus in the general fund, the transportation fund is stagnant. The governor may call for a diesel fuel tax hike three cents greater than the gasoline tax increase in order to equalize the rates. Diesel currently is taxed at 18.4 cents per gallon. The federal rates are 18.4 cents on gasoline, 24.4 cents on diesel.

Haslam has floated ideas to legislators — such as 9 cents more on gasoline and 12 on diesel — but hasn’t indicated what he’ll do. The plan is generally expected to be in the range of 9 and 12, though, give or take a few cents. Each penny of the gasoline tax generates more than \$30 million. Each cent on the diesel fuel tax produces about \$10 million. Haslam likely will tie fuel tax increases to some sort of tax reduction measure.

With a \$1 billion one-time surplus and recurring revenue growth in the general fund of \$800 million or so, calls for tax cuts have abounded, in several varieties. The governor urges caution, noting that much of the growth will be needed to cover cost increases and improvements in education and other areas. He also cites looming cost bumps in long-term obligations such as pensions and warns that eventually another recession will hit.

Here are some options bandied about:

- **Sales tax on grocery food.** Food now is taxed at 5%, compared with the general state sales tax rate of 7%. Local option sales tax rates of up to 2.75% also apply to food. Each quarter-cent reduction in the food levy would cost about \$25 million. The big advantage in such a cut is that it’s politically popular. And it might help secure Democratic votes for the gas tax hike.

The disadvantage is that Tennessee relies heavily on the sales tax — 61% of state revenue comes from it — and the tax on food is the most stable, dependable part. The poorest Tennesseans don’t pay it, since it doesn’t apply to items purchased with food stamps.

- **F&E tax.** Haslam says the franchise tax on corporate assets and excise tax on corporate income are out of line with comparable taxes in competing states and have cost the state some recent industrial recruits, and thus jobs. He has indicated an interest in addressing the matter.

Some lawmakers, including House Finance Chairman Charles Sargent (R-Franklin), have suggested reducing the 6.5% excise tax rate. Also discussed has been changing the apportionment formula, which determines how much of a multi-state company’s income is subject to Tennessee’s excise tax, to a single sales factor. The formula currently measures sales, property, and payroll, though under the 2015 Revenue Modernization Act sales are triple-weighted in the formula. Companies that make, or plan to make, large capital investments in labor-intensive facilities, such as manufacturing plants, tend to favor sales as a single apportionment factor.

- **Occupational privilege tax.** The \$400-a-year annual fee that applies to lawyers, doctors, engineers, and 19 other professions ranging from speech pathologists to sports agents generates \$88 million. Some legislators — and lobbyists, who are among the taxed — would like to reduce or eliminate it.

- **Sales tax.** The general sales tax, which counting local rates can go as high as 9.75 cents, is regarded by some as too high. Each cent generates about \$1 billion. For many years any talk of lowering it inevitably was tied to a personal state income tax. Such a tax was banned under a 2014 constitutional amendment.

Sen. Brian Kelsey (R-Germantown), sponsor of the ban, has said he will file a bill to shift a half-cent of the state rate to cities, at a cost of \$500 million. Haslam suggests that if legislators want to help local governments, one way is to vote for a gasoline tax increase — a chunk of the tax goes to cities and counties — and another is to support the administration's effort to force online vendors to collect Tennessee's sales tax.

● **Hall income tax.** The legislature cut the tax on income from stocks and bonds from 6% to 5% last spring. By statute, the tax must be gone by 2022. Haslam is expected to propose another one-point cut at a cost to the state of about \$30 million. Three-eighths of Hall revenue goes to the cities or counties where the taxpayers reside, and because of the impact on local governments a reduction of more than a percentage point at a time is not seen as feasible.

With new year comes new maneuvers by next year's gubernatorial prospects

House Speaker Beth Harwell, who is frequently asked if she intends to run for governor in 2018, suggested this week she has "plenty of time to make a proper decision."

The election is 22 months away, the qualifying deadline doesn't come until April 2018, and a lot will happen in coming months. But most candidates probably will express their intentions no later than this spring.

Legislators with an interest in the job — including Harwell (R-Nashville), Rep. Craig Fitzhugh (D-Ripley), and Republican Sens. Mark Norris, Mark Green, and Doug Overbey, are prohibited from raising campaign funds while the General Assembly is in session. Other candidates aren't.

State lawmakers probably won't make announcements until after the session, yet maneuvering already has begun. Green (R-Clarksville) last week set up a gubernatorial campaign account. As of Tuesday, when the session opened, he could no longer raise money, but he got in one event before the blackout period, a fundraiser on a farm in Montgomery County.

Boyd. Monday, Gov. Bill Haslam announced that Economic and Community Development Commissioner Randy Boyd, another likely candidate, will step down Feb. 1 to return to Radio Systems Corp., the Knoxville-based company he started in 1991. As a matter of policy, all Cabinet and senior staff departures are announced through the governor's office.

In Monday's news release, Haslam gave Boyd credit for one of his administration's signature achievements, saying "without Randy there is no Tennessee Promise." Boyd, a founder and principal driver of Tennessee Achieves, the last-dollar scholarship program on which Tennessee Promise was modeled, served as the governor's unpaid higher education adviser prior to his appointment to ECD in December 2014.

Once he leaves the department, he is expected to take steps toward a 2018 bid to succeed Haslam.

Timing. While it may seem early, an open governor's race nearly always attracts a large field of contend-

ers and requires substantial fundraising or personal wealth, and often both. Every Tennessee governor since Republican Winfield Dunn, who was elected in 1970, has succeeded someone of the other party. Odds are that will change next year, since the state now is as Republican as it was Democratic in the decades before Dunn. However, at least three Democrats are exploring the notion that the right candidate, each meaning himself, might continue the party-rotation trend.

Former Nashville mayor Karl Dean, who presided over an economic boom in Nashville that has continued since he left office in 2015, plans to make a decision in the first quarter of this year. The last two governors have been former mayors — Democrat Phil Bredesen in Nashville, Haslam in Knoxville. Dean served as Nashville's public defender before his mayoral election in 2007.

House Minority Leader Fitzhugh, also a lawyer but whose job is CEO of the Bank of Ripley, would like to restore his party's one-time appeal to rural residents. He is one of only three rural Democratic legislators. Fitzhugh has served in the House for 22 years. As of Oct. 29, his campaign account showed about \$35,000.

Also exploring a race is Bill Freeman, a multimillionaire businessman who finished third in the 2015 Nashville mayoral election. Like Bredesen, he is a Democrat with strong business credentials. He is a long-time party activist, fundraiser, and donor. In the Nashville contest, he received substantial African-American support.

GOP & money. Based on recent elections, the 2018 GOP primary is likely to determine the next governor. Money won't be an issue for some of the potential contenders. Boyd's company makes invisible fences and other pet products. He doubtless could write a check for whatever his campaign will cost and not miss the money. The same could be said of U.S. Rep. Diane Black (R-Gallatin), whose husband founded the drug-testing company Aegis Sciences, and Bill Lee, chairman of Franklin-based Lee Company, a heating, air-conditioning, plumbing, and electrical company with 800 employees. Of course, raising money builds credibility and support.

Green, a surgeon who is president of a hospital emergency room staffing company, also is positioned to do some self-funding if necessary, though not at the level of Boyd, Black, and Lee. Loans totaling \$322,000 that he made to his senatorial campaign account can be rolled over to his new gubernatorial fund, as can any excess money from his 2016 race through the reporting period that ends Jan. 15. Green, a decorated veteran, is a favorite of tea party activists.

Lee, though well regarded, has no political base. He has traveled the state to lay groundwork for a race, and television ads for his business serve to promote his name. He would run as an outsider and seek to appeal to Christian conservatives.

Black is the new chairman of the U.S. House Budget Committee, and some doubt she'll leave the powerful position to make a risky run for governor. Her committee will play a central role in action on Obamacare and the next budget, and if it goes as she hopes, which isn't

Tennessee News Digest

- Volkswagen agreed to a \$4.3 billion settlement with the federal government this week in connection with the installation of software to circumvent diesel emissions standards. Gov. Bill Haslam, terming VW “incredibly important to Chattanooga and the state’s economy,” said the company assured him expansion plans for Chattanooga won’t be affected.
- Board of Regents Chancellor David Gregory on Tuesday named Debbie

Adams, a vice president at Chattanooga State Community College, to serve as interim president of the school when president Flora Tidings leaves Feb. 1 to become the board’s new chancellor.

- John Pointer, a former longtime state government employee who most recently ran a Sears store in Columbia, said this week he is running for state Democratic chair. Pointer, who played football for Vanderbilt University and briefly the

Green Bay Packers, becomes the second challenger of Chair Mary Mancini, who is seeking a second term when the Democratic State Executive Committee meets Jan. 28. Jamie Isabel, a former Metro Council member in Nashville, also is seeking the position.

- Chattanooga Mayor Andy Berke, running for reelection March 7, has scheduled a “Beers with Berke” fundraiser in Memphis Jan. 31.
-

guaranteed, she’ll be positioned to run as someone who went to Washington and straightened out a mess.

The state Senate majority leader, more so than Harwell, sought to convey movement toward a run, though not until after the session. He told reporters he was “more than mulling” a bid. Norris has maneuvered for some time to establish himself as a watchdog on the Syrian refugee issue. His Senate campaign fund contained \$514,000 as of Oct. 29, money that could be transferred to a gubernatorial campaign.

Harwell, who had \$954,000 in her House campaign fund as of Oct. 29, held a fundraiser Monday, the day before the blackout period began.

Overbey, an attorney, had a Senate campaign balance of \$188,000 on Oct. 29.

Watson to chair Senate Finance, Doss heads House Transportation

Newly elected Lt. Gov. Randy McNally on Thursday named Sen. Bo Watson (R-Hixson) chairman of the Senate Finance Committee, which McNally (R-Oak Ridge) himself led for 10 years. He appointed Sen. Jim Tracy (R-Shelbyville) speaker pro tem, the position Watson had held. Sen. Paul Bailey (R-Sparta) succeeds Tracy as Transportation Committee chairman.

McNally named Sen. Ferrell Haile (R-Gallatin) deputy speaker in place of Sen. Steve Southerland (R-Morristown), who continues to chair the Energy Committee.

Cleaning House. In the House, Speaker Beth Harwell, who in the fall fended off a caucus challenge for her position from Rep. Jimmy Matlock (R-Lenoir City), named Rep. Barry Doss (R-Lawrenceburg) to replace Matlock as chairman of the Transportation Committee.

Rep. Andrew Farmer (R-Sevierville), a lawyer, succeeds Jon Lundberg as Civil Justice Committee chairman. Lundberg is now in the Senate. Rep. Ron Travis (R-Dayton) takes over as chairman of the Insurance and Banking Committee, succeeding Steve McManus, who lost his reelection bid in November.

The new House Finance Subcommittee chairman is Rep. Gerald McCormick (R-Chattanooga), the former majority leader. Last year, Speaker Pro Tem Curtis Johnson (R-Clarksville) filled the role on an interim basis after Mike Harrison left the legislature.

Road kings. Both houses have new transportation chairmen for a session in which highway funding will be

a leading issue. Sen. Bailey, previously a member of the committee, is in the trucking business. Rep. Doss, a general contractor, did not serve on the House panel previously. He sponsored a bill last year to send \$100 million from a general fund surplus to counties for transportation projects. It passed 92-0 but died in Senate Finance.

Harwell made these changes:

- Rep. Kevin Brooks (R-Cleveland) is the new Finance vice chairman, replacing Rep. David Alexander (R-Winchester), who is no longer on the committee.
- Rep. Dan Howell (R-Cleveland) replaces Rep. Mike Sparks (R-Smyrna) as Local Government vice chairman.
- Rep. Mike Carter (R-Ooltewah) replaces Rep. Jim Coley (R-Bartlett) as Civil Justice Subcommittee chairman, with Rep. Debra Moody (R-Covington) filling Carter’s old slot as vice chairman.
- Rep. Bud Hulseley (R-Kingsport) takes over as State Government vice chairman from Rep. Mary Littleton (R-Dickson), who stays on the committee.
- Rep. John Holsclaw (R-Elizabethton) replaces Rep. Timothy Hill (R-Blountville) as vice chairman of Calendar and Rules.
- Newly elected Rep. Michael Curcio (R-Dickson) replaces Rep. Micah Van Huss (R-Gray) as Criminal Justice vice chairman. Rep. Tilman Goins (R-Morristown) is the new subcommittee chairman, replacing Farmer.
- Rep. Eddie Smith (R-Knoxville) takes Moody’s old post of Education Administration vice chairman.

Filling openings are Rep. Sabi Kumar (R-Springfield), a doctor, as Health Committee vice chairman; Rep. Brian Terry (R-Murfreesboro), also a doctor, as Health Subcommittee chairman; and Rep. David Byrd (R-Waynesboro), a retired principal and coach, as vice chairman of the Education Instruction Committee.

Democrats. No Democrats were named committee officers in either house. In the Senate, neither Minority Leader Lee Harris (D-Memphis) nor Democratic Caucus Chairman Jeff Yarbrow of Nashville is on the Finance Committee. This was also the case under Lt. Gov. Ron Ramsey, who, when both leaders were new members two years ago, opted to give the Finance assignments to more senior Democrats, Sens. Thelma Harper of Nashville and Reginald Tate of Memphis. McNally did the same. Harper and Tate voted for McNally for speaker Tuesday while Harris, Yarbrow, and Sen. Sara Kyle (D-Memphis) abstained.

Tennessee Notes & Quotes

■ Sen. **Randy McNally** (R-Oak Ridge) became the 87th Senate speaker and lieutenant governor in Tennessee history Tuesday, with 29 of 33 senators voting for him. There was no other nominee, but three Democrats not wishing to vote for a Republican abstained. In a speaker's election, the clerk calls the roll, and each member shouts out the last name of the candidate he or she favors. When it was McNally's turn, he called out "Ramsey." The gesture conveyed both humor and warmth, but more the latter, and McNally did not change his vote. Spectators in the gallery broke into applause. **Ron Ramsey**, presiding as lieutenant governor until his successor was chosen, brushed back a tear.

■ Former longtime senator **Douglas Henry** of Nashville, 90, **McNally's** Democratic predecessor as Finance Committee chairman, was among the guests on the Senate floor, in a wheelchair. McNally gave him the honorary title of "special counsel to the Senate." He also named **Ramsey** "speaker emeritus."

■ House Speaker **Beth Harwell** was unanimously elected to a fourth term in the position. Two months ago, Harwell defeated a challenger in the Republican Caucus, Rep. **Jimmy Matlock** (R-Lenoir City), 40-30.

■ The 110th General Assembly adjourned its three-day organizational session Thursday and shifted into regular session. It will be in recess until Jan. 30, when Gov. **Bill Haslam** will deliver the State of the State address and discuss his 2017-18 budget recommendations. The return date also will mark the 73rd birthday of the new lieutenant governor.

■ A California law that took effect Jan. 1 bars state-funded travel to Tennessee — as well as North Carolina, Mississippi, and Kansas — based on charges that the states discriminate against LGBT people. In Tennessee's case, the action came because of a 2016 law that allows state-licensed counselors and therapists to arrange for referrals of clients to other counselors if they find the clients' goals and objectives at odds with their own "sincerely held principles." While nothing in the law refers to LGBT issues, the American Counseling Association, which a couple of years earlier amended its code of ethics to mandate treatment regardless of a provider's personal beliefs, termed the Tennessee legislation a "hate bill."

■ Some Tennessee legislators are annoyed, to say the least. They won't reciprocate, but Sen. **Mike Bell** (R-Riceville) and others are working on a resolution to gig the Golden State a bit.

■ U.S. Rep. **Marsha Blackburn** (R-Brentwood) is the new chairman of the House Telecommunications Subcommittee, succeeding Rep. **Greg Walden** (R-Ore.), now Energy and Commerce Committee chairman.

■ **Amy Martin** is the new president of the Tennessee Cable Telecommunications Association, succeeding **Doug Fisher**. She previously served as associate vice president for environment and energy with the Tennessee Chamber of Commerce & Industry.

■ "Sheila Butt to the Poor: 'Let Them Not Eat Cake'" — *Headline on a Nashville Scene story about a bill by Rep. **Sheila Butt** (R-Columbia). It seeks to ban the use of food stamps — through a federal waiver — on cake, ice cream, and other sugary, fatty items.*

■ Ah well. Guess the kids can have birthday yogurt.

■ In adopting permanent rules Thursday for the new General Assembly, the House made a few changes from the old ones, addressing ethics. A new provision requires disclosure of out-of-state travel and related expenses totaling at least \$100 paid by people seeking to influence state policy. Also, a Workplace Discrimination and Harassment Subcommittee of the House Ethics Committee was created to deal with sexual harassment complaints against members. This grew out of the **Jeremy Durham** matter.

■ The House debated the rules at some length, though most of the discussion dealt not with the changes but with language already there. "Maybe some people are just now reading it," said Ethics Committee Chairman **Steve McDaniel** (R-Parkers Crossroads). McDaniel, incidentally, was reappointed as deputy speaker.

■ Gov. **Bill Haslam** is among 20 governors who signed a letter to U.S. Sen. **Lamar Alexander** Monday supporting confirmation of **Betsy DeVos**, President-elect **Trump's** nominee for education secretary, as "an inspired choice to reform federal education policy." Alexander, chairman of the Senate's education committee, which has scheduled a hearing for next Tuesday, doesn't need convincing. The senator, a former education secretary himself, predicted DeVos will be "swiftly confirmed."

■ Last month, former U.S. Senate majority leader **Bill Frist** wrote a letter to *The New York Times* describing **DeVos** as a trailblazer in education reform who has worked to ensure high-quality teachers and "more choices for parents." Frist is the founder of SCORE, an advocacy and research organization that focuses on student success. Not all Tennesseans view DeVos so favorably. In an email blast Monday, state Democratic Chair **Mary Mancini** charged that the nominee "plans to break public education."

■ "I might be the only lieutenant governor that's ever played lacrosse." — *Lt. Gov. **Randy McNally**, in The Tennessean, on his place in Tennessee history.*

■ "You have to be able to tell people to go to hell and make them look forward to the trip." — *Lt. Gov. **McNally**, in the Chattanooga Times Free Press, on the job of the Finance Committee chairman, Sen. **Bo Watson** (R-Hixson).*

■ "Boyd, who is leaving his post Feb. 1, was scheduled to appear at a Jackson Young Professionals event Wednesday but missed it due to traffic on Interstate 40." — *From The Jackson Sun Thursday, on ECD Commissioner **Randy Boyd**.*

■ Hmm. Wonder if this is part of the **Haslam** administration's lobbying effort on the gasoline tax.