

AIA Calendars

Monday, April 25, 2011

Senate Finance Tax Subcommittee -- Monday at 1:00 pm -- LP 12

MEMBERS: Chair Henry (D), Finney (D), Ketron (R), Overbey (R), Woodson (R).

SB [0708](#)
Barnes

TAXES SALES: Exemption - solar panels purchased for residential use. Exempts solar panels purchased exclusively for residential use from sales taxes. (HOUSE: HB 0785, McDonald; Referred to House General Subcommittee of Finance.) FISCAL NOTE: Dated: February 25, 2011 Decrease state revenue - net impact - \$213,500. Decrease local revenue - \$93,800.

SB [0709](#)
Barnes

TAXES SALES: Exemption - solar panels purchased for commercial use. Exempts solar panels purchased for any legitimate business purpose or commercial use from sales tax. (HOUSE: HB 0784, McDonald; Referred to House General Subcommittee of Finance.) FISCAL NOTE: Dated: February 25, 2011 Decrease state revenue - net impact - \$336,000. Decrease local revenue - \$142,000.

Senate State & Local Government Committee -- Monday at 2:30 pm -- LP 12

MEMBERS: Chair Yager (R), Vice Chair Tracy (R), Secretary L. Finney (D), Campfield (R), Faulk (R), Harper (D), Haynes (D), Ketron (R), Norris (R).

SB [1672](#)
Tracy

GOVERNMENT CONTRACTS: Freedom in Contracting Act. Prohibits public agencies from requiring certain wage requirements on contractors performing state funded public works. Prohibits public agencies from requiring contractors to become affiliated with labor organizations or employee organizations. AMENDMENT: House amendment 1 declares any part of the bill invalid when or if it conflicts with federal law or disqualifies the state for federal funding. (HOUSE: HB 1498, McDaniel; House 04/14/2011 passed with amendment 1.) FISCAL NOTE: Dated: March 1, 2011 Not significant.

SB [1042](#)
Ketron

GOVERNMENT CONTRACTS: Modification or alteration of bid requirement. Prohibits a modification, alteration, change or deletion to any bid specification or requirement within 48 hours of the bid opening or bid acceptance. Specifies that this is required when a statute, ordinance, resolution, rule or regulation mandates the use of competitive bidding of any kind or nature by a state agency, county or municipal corporation. AMENDMENT: House Commerce amendment 1 requires that the bidders submit questions to the architect or designer with 96 hours of the bid opening or acceptance. (HOUSE: HB 0965, Curtiss; Set for House floor 04/27/2011.) FISCAL NOTE: Dated: March 28, 2011 Not significant. **Recommended for passage as amended.**

Senate Consent 2 -- Monday at 5:00 pm -- Senate Chamber

SB [0489](#)
Ketron

GOVERNMENT CONTRACTS: Public facilities superintendents, construction contracts. Increases the amount the superintendent of an urban type public facility may purchase without approval of the governing authority from \$500 to \$10,000 and increases the amount of construction contracts from \$2,000 to \$10,000 for which the superintendent must advertise for bids. (HOUSE: HB 0385, Marsh; House passed 03/28/2011.) FISCAL NOTE: Dated: March 12, 2011 Not significant.

Tuesday, April 26, 2011

House Commerce Committee -- Tuesday at 9:00 am -- LP 16

MEMBERS: Chair McManus (R), Vice Chair Lundberg (R), Secretary Marsh (R), Curtiss (D), Elam (R), Favors (D), Gilmore (D), Hardaway (D), Harmon (D), Haynes (R), C. Johnson (R), P. Johnson (R), Matlock (R), D. Miller (R), Montgomery (R), Pitts (D), Pody (R), Powers (R), Ragan (R), Roach (R), Sargent (R), Sexton (R), Shepard (D), Sontany (D), Swann (R), Todd (R), Towns (D), K. Williams (I), Wirgau (R).

HB [1608](#)
McDonald

PROFESSIONS & LICENSURE: Contractor licensure exemptions. Exempts persons or entities from the requirement to obtain a license as a general contractor or home improvement contractor, if the person discloses that the person is not licensed, obtains other permits required by law, and does not submit or attempt to submit a bid to install any material, and the removal must not include delegations to any other person or entity or affect the building's structural integrity. (SENATE: SB 1542, Berke; Set for Senate Commerce, Labor & Agriculture Committee 04/26/2011.) FISCAL NOTE: Dated: March 17, 2011 Decrease state revenue - \$26,300/Board of Licensing Contractors.

Senate Commerce, Labor & Agriculture Committee -- Tuesday at 1:00 pm -- LP 12

Final Calendar. MEMBERS: Chair Johnson (R), Vice Chair Faulk (R), Secretary Burks (D), Beavers (R), Gresham (R), Southerland (R), E. Stewart (D), Tate (D), Woodson (R).

SB [1542](#)
Berke

PROFESSIONS & LICENSURE: Contractor licensure exemptions. Exempts persons or entities from the requirement to obtain a license as a general contractor or home improvement contractor, if the person discloses that the person is not licensed, obtains other permits required by law, and does not submit or attempt to submit a bid to install any material, and the removal must not include delegations to any other person or entity or affect the building's structural integrity. (HOUSE: HB 1608, McDonald; Set for House Commerce Committee 04/26/2011.) FISCAL NOTE: Dated: March 17, 2011 Decrease state revenue - \$26,300/Board of Licensing Contractors.

SB [0867](#)
Crowe

PROFESSIONS & LICENSURE: Registered interior designers. Changes the title "registered interior designers" to "licensed interior designers" and allows them to prepare non-structural interior design plans for large commercial interior spaces. (HOUSE: HB 1741, Sontany; Referred to House General Subcommittee of Commerce.) FISCAL NOTE: Dated: March 24, 2011 Increase state revenue - \$97,500/FY12-13/Board of Architectural and

Engineering Examiners. \$19,500/FY13-14 and subsequent years/Board of Architectural and Engineering Examiners. \$70,000/Biennially beginning in FY14-15/Board of Architectural and Engineering Examiners. \$14,000/Biennially beginning in FY15-16/Board of Architectural and Engineering Examiners. Increase state expenditures - \$5,000/FY11-12/Board of Architectural and Engineering Examiners **Bill has been rolled until 2012. We will meet with IDs over summer/fall to discuss rule changes that might solve some problems. We remain opposed to licensure.**

[SB 0904](#)
Watson B.

CONSTRUCTION: Local construction inspection services. Requires local jurisdictions located in Davidson, Hamilton, Knox, and Shelby County who are approved by the state fire marshal to enforce and adopt specified codes to take on the responsibility of all required construction inspection services for buildings less than three stories high and requires all building plans be submitted to the local government for approval. (HOUSE: HB 1082, McCormick; House General Subcommittee of Commerce deferred to 2012.) FISCAL NOTE: Dated: March 25, 2011 Decrease state revenue - \$513,600.

House State & Local Government Committee -- Tuesday at 1:30 pm -- LP 16

Per announcement by the chair, the committee will also meet at 4:30 pm in LP 31 to finish any bills not heard. MEMBERS: MEMBERS: Chair Todd (R), Vice Chair Ramsey (R), Secretary Haynes (R), Brown (D), Cobb (R), Dean (R), Dunn (R), Evans (R), Gotto (R), McCormick (R), L. Miller (D), Parkinson (D), Pruitt (D), Tindell (D), M. Turner (D), Watson (R), K. Williams (I).

[HB 0478](#)
Curtiss

GOVERNMENT CONTRACTS: Contracting for services - use of state employees. Requires certain commissioners and directors to certify to the comptroller that state employees could not have been used instead of contracting with outside entities in rendering services required under certain contracts. Requires such commissioners or directors to attach to the certification persuasive written reasons as to the inability of the department or agency's employees to perform the services required under the contract. Broadly captioned. (SENATE: SB 1041, Ketron; Taken off notice in Senate State & Local Government 03/22/2011.) FISCAL NOTE: Dated: February 19, 2011 Not significant. Action deferred till 2012. **This is a bad bill even though architects/engineers are being amended out of bill.**

Senate Judiciary Committee -- Tuesday at 3:30 pm -- LP 12

MEMBERS: Chair Beavers (R), Vice Chair Overbey (R), Secretary Bell (R) Barnes (D), Campfield (R), Ford (D), Kelsey (R), Marrero (D), Yager (R).

[SB 1522](#)
Norris

JUDICIARY: Tennessee Civil Justice Act of 2011. Enacts the "Tennessee Civil Justice Act of 2011." Specifies new venue requirements for any civil suit against a company to no longer include any county in which the business has an agency or office. Reduces from \$75,000,000 to \$25,000,000 the maximum bond a civil litigant must post to appeal a final order and stay execution of the order while on appeal. Establishes a normal rule requiring bond equal to 125% of the judgment, excludes punitive damages from the calculation of the bond amount and provides for an appeal without the risk of bankruptcy. Clarifies that a civil plaintiff may recover for economic losses incurred but not for charges subject to discounts or forgiveness of such health care charges that would be discounted under a health care plan. Limits non-economic damages to \$750,000 per injured plaintiff outside of the health care liability action context and \$750,000 per occurrence in the health care liability action context. Provides limits for punitive

damages at two times compensatory damages or \$500,000 whichever is greater. Prevents punitive damages in products liability actions when the defendant complied with state and federal regulations. Limits liability of a seller of a product except in certain specific circumstances. Enables interlocutory appeal of orders granting or denying class certification and automatic stays. (Part of Administration Package) (13 pp.) AMENDMENT: House General Subcommittee of Judiciary amendment 1 rewrites the bill. Deletes a provision granting venue in the county where the plaintiff resides when the defendant is not a natural person, the county where the defendant is found for civil actions of a transitory nature, and the court district the tort arose when domestic and foreign companies have an office or agent in the same county but in a different court district. Deletes a section providing proper venue for actions against foreign corporations. Requires the appeal bond to stay execution in a civil action be the lesser of \$25,000,000 or 125 percent of the judgment amount instead of a flat \$25,000,000 maximum. Permits instead of requires a judge to include punitive or exemplary damages in an order establishing a bond amount because the appellant is dissipating assets to avoid payment of a judgment and removes the 125 percent of the judgment bond maximum under such circumstances. Allows the court to establish terms and conditions it deems proper to allow an appeal to proceed when the cost of a bond would render an appellant insolvent. Deletes a provision excluding from economic damages any amounts discounted or forgiven due to a financial relationship with a health insurer or other payor instead of excluding costs not paid or repayable by various insurance policies and programs. Adds pharmacists and pharmaceutical interns and technicians to the definition of healthcare liability action. Adds mental health treatment to the definition of economic damages. Increases the proposed damages cap on health care liability actions to \$750,000 per individual instead of per occurrence and applies the cap to all injuries and occurrences which were or could have been asserted. Exempts from the \$750,000 limitation on noneconomic damages injuries and losses of a catastrophic nature and personal injury or wrongful death actions in which the defendant had a specific intent to inflict serious physical injury, materially altered or concealed records to evade liability, or the defendant was under the influence and substantially impaired which caused the injury. Applies the \$750,000 limitation on noneconomic damages to cases involving multiple defendants liable under comparative fault. Prohibits the noneconomic limitation from being disclosed to the jury. Limits findings of past damages to medical costs, other economic damages, and noneconomic damages. Requires the trier of fact to make a specific finding as to whether or not a catastrophic loss or injury has occurred when disputed facts exist. Requires all calculations of future losses reflect net present value. Deletes a provision excluding from economic damages charges that have been or are subject to discount or forgiveness for any reason. Requires the trier of fact by special verdict to determine whether a defendant's conduct was malicious, intentional, fraudulent or reckless for the purpose of determining if punitive damages may be considered instead of allowing the court to determine whether the issue of punitive damages may be submitted to the trier of fact and requires a prompt evidentiary hearing on the amount of punitive damages if determined such conduct exists. Deletes language allowing an evidentiary hearing on the availability of punitive damages only if compensatory damages have been made against a party. Replaces circumstances exempt from the limitation on punitive damages to include the same circumstances exempting actions from the limitations on noneconomic damages and requires a special verdict to determine whether any of these circumstances exist if there is a disputed issue of fact. Deletes language placing the burden of proof on the claimant to establish specified circumstances to allow a punitive damage award. Adds requirements to what constitutes defendant's compliance with government regulations which prohibits an award of punitive damages. Applies 29-39-104 to govern punitive and exemplary damages against a manufacturer of a drug or device. Deletes language removing a rebuttable presumption that a product is not unreasonably dangerous when in compliance with federal, state, or administrative law. Deletes language excluding securities from the definition of goods and excluding the

marketing and selling of securities from the definition of services. Grants the power of enforcement against acts deceptive to a consumer to the attorney general and the director of the division and requires both receive notice of an appeal to an action brought under the consumer protection act and permits either to intervene. Deletes language prohibiting the commencement of any class action under the consumer protection act. (HOUSE: HB 2008, McCormick; House Judiciary 04/19/2011 recommended with amendment 1,2, 3, 4 and 5. Sent to House Calendar & Rules.) FISCAL NOTE: Dated: March 10, 2011 Not significant.

Wednesday, April 27, 2011

House General Subcommittee of Finance -- Wednesday at 10:30 am -- LP 29

See addendum. MEMBERS: Chair Harrison (R), Vice Chair C. Johnson (R), K. Brooks (R), L. DeBerry (D), Fitzhugh (D), Matheny (R), McCormick (R), McDaniel (R), Naifeh (D), Odom (D), Roach (R), Sargent (R), Shaw (D), Tindell (D).

HB [1132](#)
Brooks, Harry

EDUCATION: Local boards of education may enter into capital leases. Authorizes local boards of education to enter into capital leases and build-to-suit capital leases of real or personal property for the use, construction, repair or renovation of school buildings and facilities. Specifies that such a capital lease may relate to either an existing building or a new school building to be constructed. Requires that the term of such a lease not exceed 40 years. Specifies that no deficiency judgment may be rendered against any local board of education or local legislative body in any action for breach of a contractual obligation in connection with such a lease. Establishes requirements for bidding processes for any construction projects connected to such leases. AMENDMENT: House Education amendment 1 removes requirement in original bill that construction work did not have to be performed under the contractor provisions of TCA 49-2-203(a)(3) unless expenditures for the work exceeded \$300,000. Before entering into any capital lease agreement, the local board of education is required to adopt a resolution authorizing this action and publish its intent to adopt a resolution at least 10 days in advance of the meeting where this resolution may be adopted. Sets forth resolution requirements. Requires private developers to bid work competitively and to advertise for bids in a newspaper of general circulation at least 30 days before the bid date. Requires private developers to provide a performance bond equal to 100 percent of the construction contract amount. (SENATE: SB 1916, Woodson; Senate Education deferred to 04/27/2011.) FISCAL NOTE: Dated: March 4, 2011 Increase local expenditures - exceeds \$1,000,000/permissive. We've been working on this one 24/7. Meeting with Rep. Brooks scheduled for noon Monday. Our intent is to amend this bill to create ONE pilot project. The realities of leaseback program are not good for public or for architects. See position paper on web site.

HB [2030](#)
Curtiss

WORKERS COMPENSATION: Exemption from coverage - construction services providers. Clarifies that the general contractor of a commercial construction project shall select the three individual construction services providers who may be exempt from workers' compensation coverage while working on the commercial construction project. Allows five instead of three corporate officers who are engaged in the construction industry to apply for an exemption from the requirements that they be covered by workers' compensation insurance. Contains broad caption. AMENDMENT: House Consumer and Employee Affairs amendment 1 deletes the original bill. Defines employee not to include a construction services provider who is listed on the workers' compensation exemption registry. Decreases, from 30 to 20 percent, the

share of ownership required for partners in a partnership or members of limited liability companies to be eligible for exemption. Authorizes an individual, associated with multiple business entities, to be listed as exempt for each entity in the Workers' Compensation Exemption Registry. Requires revocation of all exemptions in a person or entity's name whose license is revoked. Requires revocation of exemptions for failure to pay any workers' compensation premiums. Establishes a fee of \$20 for a second or subsequent exemption, valid for a period of two years. Requires any insurance policy canceled as a result of exemption to be canceled with no penalty. Senate Commerce amendment 1 clarifies that the exemption from workers' compensation insurance for three construction services providers who are performing direct labor on a commercial construction project applies to three individuals and not three entities. Senate Commerce amendment 2 rewrites the bill. (1) States that a construction services provider who is listed on the workers' compensation exemption registry is not an "employee" if such provider is working in the service of the business entity through which the provider obtained such an exemption. (2) Clarifies that any person who has a workers' compensation exemption shall not be within the scope of the workers' compensation chapter. (3) Current law (Public Chapter 1149) defines "engaged in the construction industry" as a person assigned to the contracting group as designated by the department of commerce and insurance. This amendment clarifies that if more than one classification applies, the classification that produces the greatest amount of payroll shall be used to determine whether the person or entity is engaged in the construction industry. (4) Clarifies that a construction services provider performing work directly for the owner of the property is exempt from the requirements that he or she be covered under a workers' compensation policy of insurance; provided, that such an exemption shall not apply to any provider that subcontracts any of the work. (5) Currently, only three officers of a corporation may be eligible for a workers' compensation exemption. This amendment increases that number to five. (6) Currently, only partners of a partnership or members of an LLC may be eligible for an exemption if they own at least 30 percent of the partnership or company. This amendment decreases the required ownership to 20 percent. (7) Currently, a construction services provider who has an exemption but is associated with multiple business entities may only obtain one exemption, regardless of the number of business entities for which the provider may be associated. Removes such restriction. (8) Clarifies that a construction services provider's exemption revocation is mandatory instead of permissive if certain circumstances exist, such as the provider failed to pay workers' compensation premium. (9) States that if a construction services provider's license is revoked or if the provider has failed to pay workers' compensation premium, whether or not such violation is as the individual or the business entity through which the provider obtained an exemption, all exemptions in the provider's name shall be revoked. (10) Clarifies that a construction services provider shall have the common law right of action if the provider is listed on the registry and is working in the service of the business entity through which the provider obtained such an exemption. (11) Sets the fee for issuance and for renewal of a second or subsequent workers' compensation exemption at \$20. (12) Currently, no more than three construction services providers who are performing direct labor on a commercial construction project may be exempt. This amendment clarifies that the three construction services providers who may be exempt shall be the three that are selected by the general contractor and shall be individuals working in the service of a business entity through which the construction services provider obtained such an exemption. (13) Removes the requirement that the general contractor provide notice to any provider who provides services to such general contractor and who is listed on the registry that such provider is not eligible for an exemption. (14) Clarifies that the section addressing the implementation of Public Chapter 1149 applies prior to March 1, 2011. (15) Requires that any insurance policy that is canceled as a result of a construction services provider obtaining an exemption pursuant to this act shall be canceled as if the insured were retiring, i.e. canceled with no penalty. (SENATE: SB 1550, Ketron; Senate Commerce, Labor & Agriculture recommended

03/29/2011 with amendment. Sent to Senate Finance, Ways & Means.)

Senate Government Operations Committee -- Wednesday at 12:00 pm -- LP 12

MEMBERS: Chair B. Watson (R), Vice Chair Bell (R), Secretary Harper (D), Crowe (R), Johnson (R), Kyle (D), Roberts (R), Summerville (R), Tate (D).

SB [0172](#)
Watson B.

GOVERNMENT ORGANIZATION: Sunset - board of examiners for architects and engineers. Sunsets the board of examiners for architects and engineers on June 30, 2013. (HOUSE: HB 0242, Cobb J.; House passed 02/28/2011.) FISCAL NOTE: Dated: January 28, 2011 Not significant. This could be a problem since Senate and House sponsors will not compromise with each other, and our Licensing Board is in one-year wind down. We trust Governor will not allow this Board to die.

House General Subcommittee of Education -- Wednesday at 2:30 pm -- LP 29

Please note TIME. Per announcement by the chair, bills not addressed will be deferred to 2012. MEMBERS: Chair Hensley (R), Vice Chair Carr (R), H. Brooks (R), K. Brooks (R), J. DeBerry (D), L. DeBerry (D), Dunn (R), Fitzhugh (D), Lollar (R), Maggart (R), Montgomery (R), Naifeh (D), Pitts (D).

HB [1752](#)
DeBerry L.

EDUCATION: Energy efficient schools initiative deleted. Deletes the energy efficient schools initiative from statute and transfers remaining amounts in the energy efficient schools council fund to the lottery for education account. (SENATE: SB 1596, Marrero; Failed in Senate Education 04/20/2011.) FISCAL NOTE: Dated: March 17, 2011 Other Fiscal Impact - Transfers \$48,238,700 from the Energy Efficient Schools Council Fund to the Lottery for Education Account. We defeated this one. Yea us.

House General Subcommittee of Judiciary -- Wednesday at 2:30 pm -- LP 31

TIME CHANGE to 2:30 p.m. from 3:30 p.m. Per announcement by the chair, the subcommittee will be closing and all bills that are not addressed will be deferred to 2012. MEMBERS: Chair Coley (R), Vice Chair Dennis (R), Bass (D), Camper (D), Lundberg (R), Matheny (R), Rich (R), Sontany (D), Watson (R).

HB [0511](#)
Lundberg

JUDICIARY: Transportation-related presumptions and immunity. Establishes a presumption of proximate cause of injuries or damages for motor vehicle accidents occurring within a construction zone when one of the vehicle drivers was drunk, under the influence of certain drugs, or convicted of reckless driving in relation to the accident. Provides immunity to road and bridge contractors if at the time of the accident, the contractor was in compliance with contract documents material to the condition that was the proximate cause of the injury, but exceptions apply. Establishes a presumption that engineers who provide engineering plans to the department of transportation have exercised the care that other similarly situated engineers have exercised. AMENDMENT: Senate Transportation amendment 1 rewrites the bill. Establishes a presumption of proximate cause of a motor vehicle accident occurring within a construction zone that results in death, injury, or damage if the vehicle operator is found to be under the influence. Establishes immunity from claims for personal injury, property damage, or death arising from certain Department of Transportation (TDOT) projects. Requires a contractor or an engineer to provide TDOT with written notice of any apparent errors or omissions in the

	contract document or TDOT's design standards. (SENATE: SB 0395, Overbey; Senate Transportation recommended 04/13/2011 with amendment 1. Sent to Senate Calendar Committee.) FISCAL NOTE: Dated: March 27, 2011 Not significant.
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