

Legislative Update to the Board of Health February 9, 2023

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Highlighted below are bills that will have an impact on the Health Department, including the state's decision to supplant CDC funds for HIV prevention programming with state money. We have been told our allotment will not change, but there may be implications for some subrecipients in Davidson County that have been receiving those CDC funds through the state, most notably StreetWorks and Nashville Cares, and possibly others. As of Feb. 9, 2023, the state had not released the list of the six NGOs we've been told they will fund with this money.

Weekly Legislative Update for Metro Council – March 5, 2023

Transportation Secretary Buttigieg Comes to Nashville

U.S. Secretary of Transportation Pete Buttigieg made a personal visit to Nashville to award the city with an \$7M grant for continued improvements to runways and taxiways at the Nashville International Airport. Secretary Buttigieg heaped praise upon leaders of Nashville for their efforts to make sure Davidson County has an airport all Tennesseans and the rest of the world can be proud of. Later during his visit, Secretary Buttigieg voiced his disdain for Republican Governor Bill Lee and the Republican supermajority in the TN General Assembly for their continued focus on legislation attacking the LGBTQ community.

Bill Bans Runoff Elections

On Tuesday, the Senate State & Local Government deferred taking up [SB1527](#) by [Taylor/](#)[HB1399](#) by [Zachary](#) to March 14th. A filed amendment would bar Davidson County from holding runoff elections. No action has commenced on the House side.

Bill Changes Signage Prohibiting Guns

On Tuesday, the Senate Judiciary Committee deferred taking up [SB1179](#) by [Swann/](#)[HB190](#) by [Richey](#) to March 13th. The bill adds a requirement that notice of the prohibition or restriction on the possession of weapons by an individual or entity must be posted no more than three feet from each entrance. The bill also requires the sign to measure at least 22 inches wide and 22 inches high, have a red background and white letters. Signage must be mounted or placed such that the center of the sign is between 60 inches and 72 inches from the ground. The House Civil Justice Committee passed the bill on March 8.

Bill Prohibits Local Government Abortion Assistance

[HB90](#) by [Moody/](#)[SB600](#) by [Hensley](#) is on the Senate floor on March 9 and in House Cities and Counties Subcommittee on March 8th. The bill prohibits local governments from expending funds for the purposes of assisting a person in obtaining an abortion, specifically including expending funds as part of a health benefit plan or for travel to a state where abortion is legal.

Election of School Superintendent Fails

On March 1, the Senate Education Committee killed [SB910](#) by [Niceley/](#)[HB 1244](#) by [Powers](#). The legislation would have created the "Local School District Empowerment Act," allowing for the establishment of the office of elected superintendent of schools. The legislation would have also adjusted the duties of local boards of education in school systems in which the office of elected superintendent of schools is established.

Bill Expands ESA eligibility

On March 8, the House Education Administration Committee takes up [HB433](#) by [White/](#)[SB12](#) by [Gardenhire](#). Currently, only students in Davidson County and Shelby County are eligible to participate in the Education Savings Account Voucher Program. This legislation expands the eligibility criteria for an education savings account to include students zoned to attend a school in an LEA with at least five schools, instead of at least 10, identified as being in the bottom 10 percent of schools in 2017 and identified as priority schools in the 2015, 2018, and 2021 priority school cycles. The Senate has already passed the bill.

Third Grade Retention HB437 by White

On March 7, the House K-12 Subcommittee deferred until March 14th taking up **HB437 by White, Cepicky, Terry/SB300 by Lundberg, HAILE** as introduced, the bill requires the department to post on its website an explanation of the appeals process, administered by the department, for a student who is identified for retention in third grade, based on the student's performance level rating on the ELA portion of the student's most recent TCAP test. Metro Schools opposes the current system that removes local control to utilize other assessment tools to determine student proficiency. With nearly thirty bills on the subject of retention, its believed that this is the vehicle for any changes to the current law. The Senate has taken no action on the bill.

Bill Allows for Recall of Local School Board Members

On March 8, the House Education Administration Committee takes up **HB595 by Richey, Davis, Barrett/SB635 by Lowe**. The bill allows registered voters of any county, instead of only Madison County, who reside within the geographic boundaries of an LEA to file a petition with the county election commission to demand the recall of a member of the local board of education. No action has taken place in the Senate.

Bill Bans Community Benefits Agreements and Public Improvements

On March 1, the House Property & Planning Subcommittee deferred until March 15, action on **SB513 by Lundberg/HB471 by Crawford**. Introduced as a caption bill, a lengthy amendment would create the "Tennessee Landowner Bill of Rights." The amendment cites the Takings Clause of the Fifth Amendment of the United States Constitution and Article I, Section 21 of the Tennessee Constitution which prohibit the taking of private property for public use without just compensation and the Tennessee Supreme Court ruling on Phillips v. Montgomery County, 442 S.W.3d 233 (2014) that article I, section 21 of the Tennessee Constitution should be interpreted in the same manner as the takings clause of the Fifth Amendment of the United States Constitution. The amendment states that an individual private property owner should not be required, as a condition of a land use approval or issuance of a development permit of any kind, to bear the financial burden of public improvements that are not directly related to the development of that specific property. The amendment further prohibits community benefits agreements defined as an agreement or understanding of any type between a private entity and an organization that contractually binds the private entity to fund or provide specific attributes, services or amenities, or mitigations, or anything else of value whatsoever to a metropolitan government or organization; that establishes employment criteria of any type or form, including wage and hour criteria; or that provides for or requires the private entity to utilize a trade union or other unionized workforce where the employees collectively bargain with employers for wages, hours, or working conditions. No action has taken place in the Senate. Multiple Metro Agencies are reviewing this legislation.

Council Shrinkage Bill on the House Floor

On March 6, the full House passed an amended version of **HB48 by *Lamberth, Sexton, Faison, Garrett, Moon, Cepicky, Littleton, Bricken, Richey, Bulso, Slater, Rudd/SB87 by *Watson, Bowling, Yager**. The bill would reduce the size of the Metro Council from forty (40) voting members to a maximum of twenty (20) voting members. The amendment adopted in the Senate Finance Committee has been adopted on the bill in House Finance and gives the Metro Council until the filing deadline to adopt maps for a new council with no more than 20 members. In this case, the election for the new smaller council would occur in August 2023. If the May 2023 trigger is not met, then the current council is extended for a year and there will be an election of a smaller council in August 2024. The amendment says the maps can be adopted by resolution, not ordinance and the Planning Commission must submit maps within 30 days of it becoming law. Senate Finance approved the bill on March 7 and it is on the Senate floor on March 9th.

Legislation on Drag Shows Awaits Further Action

On March 2, Governor Lee swiftly signed into law **SB3 by Johnson et al./HB9 by Todd**. This bill creates a Class A misdemeanor offense if a person who engages in an adult cabaret performance on public property or in a location where the performance could be viewed by a person who is not an adult. The bill defines an "adult cabaret performance" to mean a performance in a location other than an adult cabaret that features

topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators who provide entertainment that appeals to a prurient interest, or similar entertainers, regardless of whether performed for consideration or not. A second or subsequent violation of this offense would be a Class E felony. The bill also:

(1) Preempts an ordinance, regulation, restriction, or license that was lawfully adopted or issued by a political subdivision prior to July 1, 2023, that conflicts with this bill; and

(2) Prevents or preempts a political subdivision from enacting and enforcing in the future other ordinances, regulations, restrictions, or licenses that conflict with this bill.

On March 6, the House passed **HB30 by Doggett/SB841 by Hensley**. The legislation requires a person to obtain a valid entertainer permit from the adult-oriented establishment board, in those jurisdictions with a board, prior to performing adult cabaret entertainment for compensation. The bill would also prohibit public, private, and commercial establishments from allowing persons under the age of 18 to attend a performance featuring adult cabaret entertainment. The Senate State and Local Government Committee deferred action on the legislation until March 14, 2023.

Fuel-Source Legislation Targets Local Government

The House and Senate each passed **SB367 by Walley, Gardenhire, Lowe/HB483 by Boyd**. The legislation prohibits local governments from banning certain appliances based on its fuel source (i.e., gas stoves). If adopted, it may impact the current renewable portfolio standard in the code to add natural gas as an eligible fuel source. The measure now heads to the Governor for his action.

Airport Authority Legislation

On March 7, the House Transportation Subcommittee passed **HB1176 by Garrett , Williams, Todd, Lamberth, Howell, Grills, Marsh, Cochran/SB1326 by Bailey**. On March 8th, the Senate Government Operations Committee had a favorable recommendation on the bill to Senate Transportation. Senator Oliver tried to amend the bill unsuccessfully to have it apply to all airport authorities in the state. The legislation vacates and reconstitutes the board of commissioners for the Metropolitan Davidson Airport Authority. The bill adds the Governor, the Speaker of the House, and the Lt. Governor as appointing authorities for board positions. The legislation would wrest authority from the Mayor, who currently appoints the board. The city is in discussions with the Airport on this legislation. The airport CEO has publicly said that the airport has been hugely successful with the current model and a change is not needed. There may be amendment attempts forthcoming on this legislation.

Sports Authority Bill

On March 8, the Senate Government Operations Committee had a positive recommendation on **HB1197 by Williams/SB1335 by Bailey** to Senate State and Local Government. The legislation vacates and reconstitutes the Boards of Directors for the Metro Sports Authority. Under the bill, (a) the Mayor appoints three (3) directors, with no more than one (1) appointee being appointed from the same metropolitan school district in the county; (b) The Governor appoints four (4) directors, with no more than one (1) appointee being a resident of the same state senatorial district located in the county, and no more than one (1) appointee being a resident of the same grand division of the state; (c) The Speaker of the House appoints three (3) directors, with no more than one (1) appointee being a resident of the same house district; and (d) the Lt. Gov appoints three (3) directors, with no more than one (1) appointee being a resident of the same senatorial districts. Metro pays for some of the employees of the Sports Authority and the city is a backstop to their bonds. Amendments may be coming on this.

Caption Bill Impacts Metro Beer Board

On Wednesday, the House Departments and Agencies Subcommittee took up **SB1327 by Bailey/HB594 by Garrett**. Filed on behalf of Broadway entrepreneur Steve Smith, the legislation would impact how the Metro Beer Board handles infractions incurred by those establishments. An amend gives the state Alcohol and Beverage Commission authority to control on premise beer sale and consumption in the Tourist Development

Zone. After a line of questioning by Rep. Beck, he was able to get the bill deferred till March 15th. No action has commenced in the Senate State & Local Committee.

Billboard Legislation Resurfaces

On March 6, the House passed **SB584 by Pody/HB291 by Keisling** with no amendments. Introduced as a caption bill by the Outdoor Advertising industry, it deletes the obsolete date on which the commissioner of transportation is required to begin promulgating and enforcing rules necessary to carry out the "Outdoor Advertising Control Act of 2020"; deletes restrictions on the matters to be governed by such rules. During the 2022 legislative session, the Metro Lobby Team successfully fended off billboard legislation of concern to Nashville and the Tennessee Municipal League, which would have allowed nonconforming billboards to become illuminated (digital) automatically and continue to upgrade to latest technology by right, with no local regulatory authority. On March 8, the Senate Transportation Committee takes up the bill. We will be watching for amendments and continue communications with Sen. Campbell and Sen. Pody, who serves as Vice Chair on the Transportation Committee. Some believe this bill may just be impacting some rulemaking issues related to previous legislation.

Elimination of Pending Legislation Doctrine

On March 7, the Senate State & Local Government deferred action until March 14th on **HB170 by Ragan/SB559 by Rose, Stevens, Yager, Pody**. The legislation directs that property owners should expect that a permit application will be judged on the law in effect at the time of application. The legislation further rejects the pending legislation doctrine, as described by the Tennessee Supreme Court in its opinion from May 14, 2007, in the case of *Harding Academy v. Metropolitan Government of Nashville and Davidson County*, as contrary to the public policy interests of property owners in this state. The Beacon Center testified in support of the bill and believes there are examples in Nashville where this doctrine has been misused. Former councilmember and zoning lawyer, Jason Holleman testified against the bill. **House Status:** The bill awaits scheduling for consideration by the full House.

Recall Elections

In light of the recent travails within the office of Shelby County Clerk Wanda Halbert, Rep. Mark White (R-Memphis) has filed **HB434 by White/SB527 by Rose** to facilitate the recall process for the removal of Halbert after widespread complaints over delays in the issuance of new state license plates. The bill reduces from 15 percent to 1 percent the number of signatures of qualified voters necessary to file a petition for recall if the county governing body adopts a resolution of no confidence in a county officer. On March 7, the House Local Government Committee deferred action on the bill. No action has commenced in the Senate.

Gun Legislation

This week the House and Senate have established a special calendar to hear all gun-related legislation.

Of note, on March 7, the House Civil Justice Subcommittee and Senate Judiciary Committee will each hear **HB795 by Capley/SB823 by Hensley**. The legislation would allow handguns in courthouses but prohibits them in the courtroom. The Administrative Office of the Courts and numerous judges voiced their concerns to members of the subcommittee. Action was deferred until March 7th. **Senate Status:** No action

Bill Lowers Age for Permitless Carry

On March 7, the Senate Judiciary Committee put in General Subcommittee **HB1005 by Grills, Fritts, Butler, Barrett, Capley, Doggett, Richey, Todd/SB1503 by Stevens**. The House deferred the bill to a special calendar of civil justice subcommittee. The new vehicle that takes the language from HB1158/SB1498 in the form of an amendment. If passed, it would remove any minimum age requirement for applicants who seek an enhanced handgun carry permit. Specifically, the bill allows all lawful permanent residents to apply, but that

the department of safety shall issue enhanced handgun carry permits to people over the age of 18, provided they are eligible for gun ownership. The bill also lowers the application age for a lifetime enhanced handgun carry permit from 21 to 18. Finally, this bill would allow current and former military members who are 18 or older to store guns in their cars on school property.

It would also hold liable for injuries any entities that specifically post firearm restriction signage on their property has drawn consternation from numerous groups, including Moms Demand Action, the University of Tennessee, Vanderbilt University, and the Nashville Business Chamber.