

# The Tennessee Journal

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## Lee retreats from family leave order after GOP lawmakers balk

It was the applause line that wasn't.

When Republican Gov. Bill Lee was delivering his State of the State speech earlier this month, he touted an executive order to make Tennessee the first state to offer 12 weeks of paid leave available to state employees caring for a new child or an ill family member.

While audience members closest to the governor — legislative leaders, Cabinet members, and other clap-happy dignitaries — leapt to their feet to cheer, the rank-and-file was conspicuously less enthralled. Most Republican lawmakers not only declined to stand, but many didn't even offer polite applause.

In recognition of the enduring unease about the policy, Lee on Wednesday pulled the plug on his executive order just 11 days before it was set to go into effect. The governor said he'd instead seek legislation to extend family leave to all state employees.

Some of the disquiet among Republicans has been philosophical — paid family leave has long been a Democratic priority even if President Donald Trump has embraced the idea of covering the salaries of federal employees who become new parents.

To others, the concern is financial. While the governor's original order covered 38,000 executive branch employees, providing the same benefit to legislative and judicial branch employees required separate legislation. And despite the governor's claims to the contrary, that change is bound to come with a substantial price tag.

Legislative leaders also felt painted into a corner by the governor's order, recognizing they couldn't well deny similar benefits to the 3,000 state employees who aren't part of the executive branch without significantly hurting morale among the staff.

The grumbling has only increased over time, culminating in Senate committee hearings this week in which Republicans grilled Lee aides about the budget implications of the leave policy. Senate Finance Chairman Bo Watson (R-Hixson) posited that state departments might be overstaffed if they can pick up the slack with existing resources for employees being gone for as long as three months at a time.

When Democrats introduced paid leave legislation last year, the fiscal note estimated more than 2,500 state employees had taken unpaid time off the previous year to care for new children or ill family members. Those workers normally would have earned \$1.2 million per week, meaning they would have received \$14 million had each taken 12 weeks off. The Lee administration has argued workers' salaries are appropriated on an annual basis, whether they are on the job or taking paid leave.

Human Resources Commissioner Juan Williams in a letter to state employees acknowledged the change in approach could affect workers "in the midst of planning for coming life events." To that end, the governor's legislation will be made retroactive to March 1, the original start date of Lee's executive order. Williams sought to assure employees the decision to pursue legislation "will cement the policy in statute."

Unmentioned in the letter was that the prospects for any legislative initiative are uncertain. Republicans still smarting over Lee's earlier executive decision to keep participating in the federal refugee resettlement program could seek to exact retribution by trying to kill the bill. The proposal could also be amended any number of ways, from dialing back the number of covered weeks to matching the federal policy by applying only to caring for new children but not other family members.

Lee wanted to make a big splash with his family leave policy, calling it a pro-family move aimed at attracting and retaining top talent among younger employees. Now he will have to make the hard sell to skeptical Republican lawmakers if he wants to keep the policy from disappearing altogether.

### Hedging bets

## Rule-making for sports betting law on hold after speakers' intervention

When the legislature narrowly approved sports wagering in Tennessee last year, supporters wanted the program to be up and running for the college football season. That timetable turned out to be wildly optimistic, so hopes were shifted toward getting wagering in place in time for the Super Bowl. But still no dice.

Now the best-case scenario appears to be for the betting program to come online for the football season beginning this fall — a year later than initially hoped. And even that might be pushing it. Tennessee Lottery head Rebecca Hargrove joked this week that one thing is certain: “We’re not making March Madness.”

The Tennessee Lottery’s board had been scheduled to vote on sports gaming rules on Wednesday, but Senate Speaker Randy McNally (R-Oak Ridge) and House Speaker Cameron Sexton (R-Crossville) called for a delay over concerns that not all of the draft guidelines had fallen within the panel’s authority to impose.

The speakers’ intervention came as gaming operators worried about what they saw as excessive fees and disclosure requirements for vendors providing back-office services to sportsbooks. That was in addition to ongoing disagreements about an effort to set limits on payouts that would place Tennessee’s gambling program among the country’s least rewarding for bettors.

**Hold fast.** The Sports Wagering Advisory Council, a panel jointly appointed by the speakers and the governor, approved several changes in a meeting on Tuesday. They included calling for a more generous payout cap, or “minimum hold” in gambling parlance. The original proposal would have allowed sportsbooks to pay out no more than 85 cents on every dollar wagered.

Hargrove said the idea behind the cap is to ensure sportsbooks retain a healthy profit margin — which is the source of the state’s 20% tax dedicated to scholarships, local governments, and gambling addiction programs. She cited California’s experience with boosting payouts in its instant lottery ticket games. Players loved the change, she said, leading to a \$100 million increase in sales. But profits decreased by \$30 million, resulting in what she called “compulsive gaming with no benefit.”

But critics argued making Tennessee’s sports gaming program less generous would depress demand among gamblers and cause sportsbooks to take their business elsewhere. The advisory panel debated the merits of setting the cap at 90%, 95%, or even doing away with a minimum hold altogether. None of those ideas had the votes to be adopted on their own, so the members ended up settling on asking Lottery officials to recommend a cap closer to the national average, with a floor of 90% and a ceiling of 95%.

**Paging Tony Soprano.** The gambling law enacted last year requires a \$750,000 annual fee for licensees. While operators have groused about that price tag, a downward adjustment would require a change in the law. But the speakers questioned the propriety of another set of fees and disclosures for what the Lottery has deemed Level II intermediaries (e.g., services like software, data, geolocation, and payment processing for potentially several sportsbooks) and Level III vendors like contractors and marketers.

Jennifer Roberts, the recently hired director of Tennessee’s sports betting program, said it’s necessary for the state to vet vendors and contractors to make certain they haven’t engaged in unsavory con-

duct in the past. Roberts, who previously taught gaming law in Nevada, said the aim is to ensure the business owner “is not Tony Soprano.” The advisory panel voted to reduce the proposed \$75,000 annual Level II registration fee to \$10,000, plus any additional costs needed to complete background checks. Level III vendors’ fees would be reduced from \$7,500 to \$500.

**Outlook.** Placing the new gambling program under the control of the Tennessee Lottery was always likely to cause friction. Hargrove has been at the helm of the Lottery since its launch in 2004, and she is regarded as one of the nation’s leading experts in the field. Hargrove is also accustomed to getting her way on Lottery-related matters, so the pushback from sportsbook companies, members of the advisory panel, and legislative leaders is creating a new dynamic for her to manage.

Frustration about the slow pace of implementation had already led Sen. Steve Dickerson (R-Nashville), a main sponsor of the original sports wagering legislation, to introduce a new bill seeking to give the Sports Wagering Advisory Council the ultimate decision-making power rather than the Lottery board. But pursuing legislative changes would be fraught with peril given how closely divided the vote was last year — not to mention the governor’s personal opposition to all gambling.

The changes approved this week appear to have placated industry representatives, and Sexton said Thursday he was pleased with the adjustments. The Lottery board plans to call a special meeting in the coming weeks to vote on revised rules with an eye toward allowing applications to be submitted by April or May.

Under that timetable, a 90-day application review period could have the first sportsbooks approved and ready to start setting up shop by July or August. But there isn’t a lot of wiggle room if the football season is going to remain the target: College football kicks off on Aug. 29 and the NFL gets underway on Sept. 10.

### **Ready, fire, aim**

## **Megasite dilemma: Which comes first, the pipeline or the tenant?**

Alarm bells have been ringing across West Tennessee ever since second-year state Sen. Paul Rose (R-Covington) told regional colleagues earlier this month that Gov. Bill Lee had decided to “pause” work on the Memphis Regional Megasite. After those comments were reported in the *Daily Memphian*, the governor’s office and Economic and Community Development Commissioner Bobby Rolfe scrambled to meet with local lawmakers and regional officials to try to quell what they called unfounded fears the site could be mothballed.

Lee insisted to reporters his fundamental support for developing the megasite hasn’t changed. The governor said he just wants to ensure it makes sense to put a \$100 million wastewater pipeline into the ground before a major tenant has been landed. But it’s precisely the lack of an installed pipeline that has been blamed for being bypassed by major projects in the past, like the \$1.6 billion Mazda-Toyota plant that went to Alabama in 2017.

# Tennessee News Digest

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● Tennessee's general fund revenue surplus reached \$398 million through the first half of the budget year. About \$198 million of that amount came from higher-than-expected collections of corporate franchise and excise taxes, which posted a 19% growth rate compared with the same period last year. Sales tax collections were up 6.6%, beating projections by \$196 million. The State Funding Board in November revised its projected

growth rate for the current budget year from a high of 3.21% to 3.7%. The actual rate through half of the year is 6.6%.

● The University of Tennessee's Chattanooga campus plans to offer regional pricing to students from eight bordering states, plus South Carolina. The discount is the equivalent of about half the rate of tuition and fees charged to other out-of-state students or 37% more than the cost of in-state enrollment.

● Belmont University law students' first-time bar passage rate of 96.2% ranked the sixth highest in the country. Vanderbilt came in at No. 12, the University of Tennessee at No. 64, and the University of Memphis was 104th.

● Nicholas Sutton became the fifth Tennessee inmate to be electrocuted in the last 16 months on Thursday. He was sentenced to death for killing a fellow prisoner while serving a murder sentence.

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Rolfe tried to assuage officials gathered at a meeting of the Memphis Regional Megasite Authority in Jackson late last week, saying what industrial prospects really want to know is how long it will take to get the site linked up to utilities. With efforts to secure easements for the pipeline nearly complete, Rolfe said officials can reliably assure companies the state would be able to complete the pipeline in the same amount of time it would take to construct a major manufacturing plant.

But local officials upset because 15 years of work on the site has yet to yield a factory argue that waiting shouldn't be an option. The money to dig the 36-mile pipeline has already been appropriated — some of the pipes have even been purchased — and the state is flush with surplus revenue collections, leading to consternation about why work wouldn't start as soon as possible.

Rolfe said the governor, who was an HVAC company executive before entering politics, has raised questions about who would operate the wastewater plant and be able to quote a fixed 10-year rate to prospective investors. The latest approach is to try to structure a public-private partnership for wastewater treatment and discharge, though details remain to be hashed out.

Another consideration is that the booming economy has caused construction costs to hit all-time highs. Nobody wants to say it out loud, but if a recession is really on the horizon (as state budget planners fear), the cost of laying the pipe could drop in the future. Inaction now might save money later, the reasoning goes.

Concerns have also been raised about whether rural West Tennessee has a big enough workforce to support a major manufacturing operation. But state officials note that more than 2 million people live within a 90-minute drive of the site and a technical education center would be set up at the site to train potential workers.

**Too big to succeed?** When state officials first created a West Tennessee megasite in Haywood and Fayette counties, they assembled 1,600 acres along Interstate 40, about 18 miles east of the first exit in Shelby County and 40 miles from downtown Memphis.

Within the next several years, the site ballooned to 4,100 acres, or about 6 1/2 square miles — enough to fit the state's existing General Motors, Nissan, and Volkswagen auto plants with room to spare. Economic development officials eventually concluded that no single project would take up the entire site, so they began to

market subsections of various sizes to companies around the world. But whenever prospects expressed interest, they wanted to get their plants up and running faster than the site could be prepared.

Since most of the land was previously used for farming, the megasite didn't have access to utilities. Initial wastewater plans led to public outcry over having the effluent released into the Hatchie River, which runs 23 miles through the Hatchie National Wildlife Refuge in Haywood County. That's when the more complicated plan to build the wastewater pipeline was hatched.

The megasite project has now spanned three gubernatorial administrations and the changeover of legislative control from Democrats to Republicans. Periodic efforts to stop pouring money into the project have predictably been met with outrage among regional lawmakers, who point to other heavily subsidized economic development projects in East and Middle Tennessee.

The megasite became a flash point during the 2018 governor's race, as Republicans — including Lee — suggested rival Randy Boyd, a former ECD commissioner, was to blame for its lack of progress. And former U.S. Rep. Diane Black did her chances few favors by suggesting that the site be refocused as an agricultural research hub. If there's one thing rural western Tennessee has enough of, it's agriculture.

In the 2010 governor's race, eventual winner Bill Haslam embraced the megasite, while Republican rival Zach Wamp was pilloried for calling it "isolated" and Ron Ramsey, then the speaker of the Senate, was criticized for once having supported efforts to cut its funding. The latter move caused then-Gov. Phil Bredesen, a Democrat, to direct an expletive at Republicans during a legislative leadership breakfast, word of which spread around the state Capitol complex like wildfire.

**Outlook.** One reason for hope among megasite supporters is that the wastewater question might not be so pressing if the state manages to land initial tenants not involved in heavy manufacturing. For example, office facilities or data centers like the one Google recently opened in Clarksville. While the latter represented a \$600 million capital investment, it requires only a few dozen employees to operate — a far cry from the 3,000 jobs Mazda is creating in Alabama.

But officials are hopeful that attracting an initial project could break the seal on several more to follow.

## Tennessee Notes & Quotes

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■ “People can argue about what I should have said and what I should have done. I would bet you a dollar right here and now, my testimony would have made no difference to the ultimate outcome.” — *Former national security adviser **John Bolton** speaking at Vanderbilt about the impeachment trial of **Donald Trump**.*

■ **John Compton**, the chairman of the University of Tennessee’s board of trustees, has recommended that **Randy Boyd** become the system’s president for the next five years. Boyd, a businessman and former state economic development commissioner, was named interim UT president after his failed bid for the Republican gubernatorial nomination in 2018. He had initially agreed to take the job for up to two years.

■ “If you’re going to roll it up and smoke it like a cigarette product, we should tax it.” — *Sen. **Todd Gardenhire** (R-Chattanooga) about why he opposes a bill seeking to prevent hemp from being taxed like tobacco.*

■ Tennessee’s general jurisdiction judges receive the third-highest pay in the country when adjusted for cost of living, according to the National Center for State Courts. Without the adjustment, judges’ average pay of \$180,600 ranks No. 13. State Supreme Court justices’ \$193,488 income places them at No. 17, while intermediate appeals judges’ \$187,044 salaries rank at No. 11.

■ “You may get a little less inheritance, but you’ll have a better world.” — *Republican candidate **George Flinn**’s explanation to his children and grandchildren about why he is self-funding his U.S. Senate bid.*

■ Attorney **Charlie Warfield**, the last surviving member of the commission that drafted the charter for the merged governments of Nashville and Davidson County, died Wednesday at age 95. Warfield was one of two new members named to the charter panel after the first referendum on creating a metropolitan government had failed in 1958. Key revisions included expanding the size of the new Metro Council from 21 to 40 members. The charter was approved in 1962.

■ “Either this is a really, really good bill, or a really bad bill. It went through Judiciary nine to zero.” — *Sen. **Ferrell Haile** (R-Gallatin) during a bill review meeting.*

■ **Haile** was the sponsor of a bill seeking to allow records custodians to ask a judge to ban individuals from being allowed to seek public records if those requests are considered “harassment.” Judiciary Chairman **Mike Bell** (R-Riceville) had sided with the majority in the 5-4 vote Tuesday to kill the bill.

■ Democratic presidential candidate **Amy Klobuchar** is hosting a fundraiser in Nashville on Feb. 28.

■ About 145,500 Tennesseans cast ballots through the first eight days of early voting for the March 3 presidential primary, an increase of 2,255 votes, or 1.6%, over the same period in 2016. With President **Donald Trump** facing only nominal opposition, Republican turnout has fallen by 13% compared with four years ago. But voting is up 33% for the wide-open Democratic primary.

■ The biggest early voting increase has taken place in Shelby County, where 4,381 more Democrats have voted than through the same point in 2016, compared with 611 fewer Republicans. In Knox County, 176 more GOP voters turned out for early voting, but that was dwarfed by 3,215 additional Democrats. In Hamilton County, 1,593 more Democrats and 320 fewer Republicans voted early. And in Williamson County, which was alone in voting for Florida Sen. **Marco Rubio** over **Trump** in 2016, 1,277 more Democrats have gone to the polls, while Republican turnout dropped by 520.

■ While statewide early voting still favored Republicans by 15 percentage points, that margin was 35 points to this point in 2016. Early voting ends Wednesday.

■ “This is my first bill, I know what’s coming. I will say this, in a few short months I do have a primary coming up against a credible opponent, so let your conscience be your guide.” — *Sen. **Bill Powers** of Clarksville to Republican colleagues before the customary ribbing for members presenting their first piece of legislation on the floor. The chamber later passed the bill 33-0.*

■ **Powers** won a special election last year to fill out the term of **Mark Green** (R-Ashland City) after he was elected to Congress. **Doug Englen**, who retired from a 33-year Army career earlier this month, is expected to mount a Republican primary challenge.

■ “The fact that I experienced these financial issues gives me the ability to connect with and relate to many of my constituents who also have experienced financial difficulties.” — *State Rep. **Rick Staples** (D-Knoxville) about recently being evicted from his home and facing past legal action for failing to pay various debts.*

■ Nashville grew by about 16 people per day between 2017 and 2018, according to the latest Census data analyzed by *The Tennessean* and MTSU professor **Ken Blake**. That’s down from an average of a more than 25-person daily influx over the prior four years. Meanwhile, the populations of neighboring Rutherford and Williamson counties respectively grew by daily averages of 24 and 18 residents in 2018.

■ “We are going to reduce our expenses in North America with no taboos whatsoever.” — *Nissan CEO **Makoto Uchida**. The company’s U.S. headquarters is in Franklin, and it has plants in Smyrna and Decherd.*

■ **Victor Thompson**, the longtime chief sergeant-at-arms for the state House, died Wednesday at age 80. Thompson had been a beloved figure at the state Capitol complex since he was first hired in 1988.

■ The state Senate voted 28-4 to pass a bill allowing a new Nashville establishment called The Register, an upscale social club, to seek a liquor license.

■ We got excited there for a minute when we misheard the bill as applying to the Registry. But that probably wouldn’t be the best idea. Sure, a few drinks might make the meetings more fun. But we’d quickly get thrown out for exceeding our aggregate limit.