

The Tennessee Journal

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

Vol. 46, No. 15
April 10, 2020

Will stay-at-home order endure amid downgraded virus impact?

When Gov. Bill Lee finally acquiesced to calls for a statewide stay-at-home order last week, it was in response to increasingly dire predictions about a coming surge of coronavirus hospitalizations in Tennessee. By early this week, the governor was touting new projections from the University of Washington suggesting the state's deaths from COVID-19 could fall from a previous estimate of 3,400 to 617 by August.

The model makes the key assumption that “full social distancing” will remain in place through May. Lee’s “safer-at-home” guidance is set to expire Tuesday. While it seems likely the governor will extend the order, he has declined to say whether he will — or by how long.

Lee called the new projections a “welcome relief,” but urged Tennesseans to remain vigilant in their efforts to avoid nonessential activities. Peak hospitalizations are now expected on April 17. A new Vanderbilt model previewed on Thursday presents a different time line. It estimates peak hospitalizations will occur in early or mid-May under current social distancing guidelines.

Lee’s office this week announced a \$10 million grant program for rural hospitals, while the federal government is awarding \$25 million to 29 health centers around the state. Meanwhile, applications for \$200 million in grants for city and county governments are scheduled to go online on April 30. The funding is limited to infrastructure, maintenance, utilities, public safety, disaster recovery, and virus-related expenses.

Lee said the state is reprogramming its online unemployment claim system to link with federal benefits and accommodate self-employed workers. About 250,000 Tennesseans have filed jobless claims over three weeks.

Campaign finance

Towns’ deal illustrates Registry’s propensity to avoid punishment

When the Tennessee Registry of Election Finance last met in person, two cases up for a hearing showed a stark difference in the panel’s approach to violations.

Alex Morrow, an unsuccessful candidate for the Bradley County Commission in 2018, came before the

board to ask members to reconsider a \$10,000 penalty they had levied against him for being nearly a year late on filing a campaign finance report. In his defense, Morrow said he had forgotten to file his report after losing his job and apartment. One board member sought to forgive the \$10,000 penalty outright, but with other members remaining skeptical, the panel settled on a \$250 fine. Morrow was spared the fate doled out to others who did not show up: the full \$10,000 hit.

Minutes later, longtime state Rep. Joe Towns, with his attorney on hand, pleaded his case before the panel, which was set to levy its latest \$10,000 penalty against him for filing his own disclosures 203 days late. The fine would be added to the more than \$65,000 in fines previously assessed against the Memphis Democrat.

Towns vowed to turn over a new leaf, calling himself a “prodigal son” who would always file future disclosures in a timely manner. Unlike in the Morrow case, the Registry decided to wipe away Towns’ penalty in its entirety. Just weeks later, the Registry cut Towns even more slack. In a secret email vote, the board drastically reduced the fines Towns owed the state, to only \$22,000 — just in time for him to deliver a check to clear the balance and qualify for the fall ballot.

Same old song. While Towns is the latest elected official to avoid significant scrutiny from the Registry, the panel has seen a long line of lawmakers face scrutiny over various questionable campaign activities.

During the 2018 governor’s race, the Registry fielded — but ultimately denied — complaints filed against three of the four top Republican candidates: Diane Black, Beth Harwell, and Bill Lee. The complaints raised serious questions about coordination between a candidate and her political action committee, pooling of campaign contributions by several family members and their companies, and receiving donations from a family trust. But the panel gave short shrift to the allegations, frustrating rival campaigns in the process.

The Registry similarly shied away from levying a penalty (or even fully investigating) a 2018 claim that former Sen. Mae Beavers (R-Mt. Juliet) had illegally used

\$122,000 from her gubernatorial campaign committee. And last year, the Registry considered an audit of Rep. Harold Love (D-Nashville), which found he had used campaign money to pay for dry cleaning, jewelry, and thousands of dollars on food and drinks. The Love audit hearkened back to the Registry's probe of ex-Rep. Jeremy Durham (R-Franklin), who spent thousands in campaign funds on everything from sunglasses to suits.

When the panel moved toward fining Love, member Tom Lawless said the action was justified because "it's basically what we did with Jeremy." But when Love appeared before the Registry later, he explained many of the flagged purchases were to help his constituents, with no ill intent behind them. Love, who vowed to be more vigilant about his record-keeping, was forgiven.

Most recently, when reports of the latest campaign spending by Rep. Rick Staples (D-Knoxville) began surfacing, he quickly worked with state officials to answer questions about his use of donors' money at hotel rooms in Florida and a \$1,200 charge days before his wedding. Staples got a new treasurer while chalking up some of the issues to clerical errors.

Follow the formula. Over the years, there's been a sort of formula to many of the high-profile cases handled by the Registry: bluster and bravado, followed by fecklessness and forgiveness. When the Registry initiated its audit of state Rep. Glen Casada (R-Franklin) last August, board member Hank Fincher cited the former House speaker's use of the state plane as an "unmitigated abuse of power." Lawless said the audit was necessary in order to have "transparency and integrity."

But the release of Casada's audit has been frequently delayed (including, most recently, to beyond last week's candidate filing deadline), leading to suspicions the Registry will once again go easy.

Durham, who is still appealing his record \$465,000 fine, and Rutherford County Mayor Bill Ketron (a former state senator) are rare exceptions to the Registry's lax response to elected officials. Durham remains obstinate, while Ketron through his attorney recently asked the board's forgiveness.

At least as of last month's meeting, the Registry seemed to want to hold Ketron to account. Among the Registry's frustrations was that Ketron's daughter, Kelsey, continued in her role as the treasurer of the former lawmaker's campaign committee even as violations mounted. Lawless said Ketron's continued support of his daughter had "damaged his legacy."

When Durham and his legal team are able to reappear in front of the Registry (or later in the courts) to appeal his fine once the coronavirus pandemic ends, they will more than likely cite the reversals in cases like those of Love and Towns as reasons to grant leniency.

Transparency issues. Beyond the often toothless approach toward campaign finance violators, the Registry has at times skirted transparency — never more so than last week, when executive director Bill Young called panel members individually to ask them to vote on the Towns settlement (including Fincher, who has

been waiting out the coronavirus lockdown in France). Young said he was assured by the attorney general's office he was not violating the state's open meetings law. He told the *Daily Memphian* the emergency action was necessary because he "did not have time to set up a public meeting" so close to the candidate filing deadline.

It's unclear how that vote via email meets guidelines of the Open Meetings Act or the exceptions outlined in Lee's recent executive order allowing governing bodies to meet electronically during the pandemic.

Destined to fail? Lawmakers have never much liked the idea of outside groups looking over their shoulders on campaign finance or ethics issues. The Registry was established in 1990 and almost immediately started making enemies of the subjects of its probes.

The late Sen. Jerry Cooper felt he was unfairly singled out in 1993 for improperly reporting more than \$17,000 in contributions. The Morrison Democrat blamed it on a record-keeping problem due to changing treasurers during his campaign. He then moved to gut the Registry by introducing legislation known as the "Oops Bill" to allow candidates to escape punishment for mistakes that weren't willful or fraudulent.

When the state's first standalone Ethics Commission was founded in the aftermath of the Tennessee Waltz sting in 2006, its first executive director, Bruce Androphy, told reporters he was looking forward to meeting what he saw as the legislature's desire for the panel to be independent and assertive. It turned out lawmakers didn't really want those things, Androphy was fired after a rocky 2½ years as director, and Ketron led the charge to merge the Ethics Commission into the Registry.

Keeping the faith. When Young interviewed for the post of executive director of the Bureau of Ethics and Campaign Finance in August, he said it was "important for the public to have confidence" in elected officials. He told members of the Ethics Commission and the Registry they had to "take action if there's willful noncompliance" in order to ensure the "public has the confidence that the system works." So far, there has been little evidence such a sea change might be on the horizon.

From the campaign trail

Mannis survives challenge to GOP bona fides over Dem primary vote

When Republican businessman Eddie Mannis was a front-runner for Knoxville mayor last year, the GOP endorsements came flowing in. They ranged from former Gov. Bill Haslam (the last Republican to hold the office of Knoxville mayor) to U.S. Rep. Tim Burchett.

Mannis fell short in the runoff against Democrat Indya Kincannon, but many Republicans took heart in his decision to run for the state House seat being vacated by Rep. Martin Daniel. While House District 18 has long been a solidly Republican district, a Democratic challenger came within 3 percentage points of ousting Daniel in 2018. With Donald Trump on the ballot, the reasoning goes, a more moderate candidate like Mannis might be less likely to become collateral damage

Tennessee News Digest

● Amazon is suspending a delivery service for outside companies that competes with FedEx and UPS, *The Wall Street Journal* reports. Amazon told customers it needs to focus on a surge in demand for products shipped from its warehouses amid the pandemic. The online retailer has dozens of aircraft and more than 50,000 vehicles and trailers. It is building an operations and logistics hub with 5,000 employees in Nashville.

● Nissan plans to lay off 10,000 workers at its U.S. plants in Tennessee and Mississippi, *Nikkei* reports. The Japanese automaker had planned to idle its plants until this week, but has extended the shutdown until the end of the month.

● Nashville International Airport has closed one of its four runways for a \$51 million reconstruction project.

● Three employees at a Pilot truck stop in Strawberry Plains were killed and a

customer was wounded in a knife attack on Tuesday morning. The suspect was fatally shot by responding deputies when he refused to drop the weapon. Pilot is run by Jimmy Haslam, the brother of former Gov. Bill Haslam.

● Nashville-based CraftWorks Holdings, the parent of the Logan's Roadhouse chain, has shut down its 261 restaurants after a lender withdrew financing following a Chapter 11 filing.

if there's a wellspring of opposition to the president among Knox County voters in November.

Mannis' decision to vote in last month's Democratic presidential primary could have been his undoing. Not only did it deny him a chance to meet the state Republican Party requirements to vote in three of the past four primaries, but it also gave ammunition to his opponents who argued he's not sufficiently dedicated to the party cause to be a GOP standard-bearer.

After receiving letters from Burchett, Knox County Mayor Glenn Jacobs, and state Sen. Richard Briggs of Knoxville to vouch for Mannis, state GOP Chairman Scott Golden decided against denying him a spot on the primary ballot. That decision appeared at odds with an informal poll of the party's executive committee, some of whom are now calling for the removal of the chairman's authority to decide over candidates' bona fides.

Golden was being consistent in his approach: After U.S. Rep. Mark Green (R-Ashland City) vouched for state Senate candidate Doug Englen, he was approved for the ballot despite voting in only one of the last four GOP primaries while pursuing an Army career.

You ain't bona fide. Not everyone was so lucky when it came to surviving GOP challenges. Five of 17 candidates who filed to run for the Republican nomination to succeed U.S. Sen. Lamar Alexander (R-Maryville) were deemed to have failed to meet the party's standards. They include Byron Bush, Roy Dale Cope, Terry Dycus, Jim Elkins, and Johnny Presley.

Bush, who was also a GOP candidate for the Senate in 1994, had used his current campaign as a platform for railing against state judges following his losing legal battle to prevent a property foreclosure in 2012. Bush, a Nashville dentist, ran local ads during the Super Bowl.

Others facing exclusion from the ballot include Nichole Williams, one of 16 candidates to succeed retiring U.S. Rep. Phil Roe (R-Johnson City). Williams is a former intern for the 1st District congressman. In the 3rd District, all three GOP challengers of Rep. Chuck Fleischmann (R-Chattanooga) failed to pass muster: Sandy Casey, Elkins (who also filed to run for the Senate), and Basil Marceaux. Perennial candidate Marceaux had also filed to run against state Rep. Patsy Hazlewood of Signal Mountain, but didn't gather enough valid signatures.

In the 9th District, Charles Shappley failed to meet GOP thresholds, leaving Charlotte Bergmann to run for

the seat held by Rep. Steve Cohen (D-Memphis). Also falling short was Scott Throckmorton of Collierville, the lone GOP challenger to Sen. Paul Rose (R-Covington).

Under a state law passed last year, anyone denied a place on the primary ballot is given an opportunity to make a case for why they should be restored, so those rejections may not be final. Several other candidates likely would have failed to achieve the state Republican Party's standards, but it takes complaints from two bona fide members in for officials to launch a probe.

DeBerry gets the boot. The state Democratic Party's executive committee voted 41-18 to remove longtime state Rep. John DeBerry of Memphis from the primary ballot over his habit of siding with Republicans on matters ranging from opposing abortion rights to supporting school vouchers. The decision was met by a chorus of outrage from Republican lawmakers.

Sen. Raumesh Akbari and Rep. G.A. Hardaway, both of Memphis, urged fellow Democrats amid a three-hour hearing to instead let voters decide DeBerry's fate at the polls. But the panel disagreed. According to committee member Will Cheek: "We're a big tent, but we're not that big of a tent." The remaining Democrats who have qualified are Torrey Harris and Anya Parker.

The executive committee also removed Michael Minnis from the primary ballot in Hardaway's District 93. Rep. Joe Towns' challenger William Frazier was also found ineligible, leaving Dominique Primer as his only rival for the District 84 seat in Memphis. No Republicans are running in either race.

Family business? Elizabeth Rowland, the Democrat running to succeed retiring Rep. Bill Dunn (R-Knoxville), is seeking to become a second-generation lawmaker. Her late father, Mike Rowland, served one term in the state House from 1974 until 1976, when he gave up the seat to run for Congress against six-term incumbent John Duncan. Rowland, then 34, lost by 26 points and afterward decided to focus on his legal career. Elizabeth Rowland is the founder of the TN-China Network, an organization promoting trade.

Rowland isn't the only offspring of a former lawmaker running for the House. Johnson City developer Tim Hicks, who is challenging Rep. Micah Van Huss (R-Jonesborough) in the Republican primary in District 6, is the son of former Rep. Bobby Hicks, who served two terms in the House in the mid-1990s.

Tennessee Notes & Quotes

■ “The press in this town raves about fair-to-middling songwriters with such regularity that it’s a good thing **John Prine** plays around here once in a while to remind us what real genius sounds like.” — *The Nashville Scene in 2001. Prine died Tuesday in Nashville of complications related to COVID-19. He was 73.*

■ U.S. Rep. **Jim Cooper’s** chief of staff, **Lisa Quigley**, and her husband, **Larry Harrington**, have recovered from apparent coronavirus infections. Harrington, who is a former congressional staffer for **Al Gore**, and the couple’s son tested positive for COVID-19. Quigley had not received test results confirming a diagnosis, but had similar symptoms including a loss of smell and taste. The family received a call from the Metro Public Health Department to say they were considered clear of the virus after self-isolating for three weeks.

■ “Attacking TVA doesn’t do one thing to solve the pandemic and has no place in federal COVID-19 response legislation. TVA does not receive one dollar in federal taxpayer subsidies or federal appropriations.” — *U.S. Sen. Lamar Alexander (R-Maryville) after President Donald Trump criticized CEO Jeffrey Lyash’s \$8.1 million in compensation as “ridiculous.”*

■ “This has been wrong for decades and those salaries should be considerably reduced, particularly at this time.” — *U.S. Rep. Steve Cohen (D-Memphis).*

■ U.S. Rep. **Tim Burchett** (R-Knoxville) disclosed selling between \$1,000 and \$15,000 worth of stocks in Denny’s Corp. on Feb. 12, when then shares were selling for \$20. They were trading at around \$9 this week.

■ “I actually think our local and state leaders have been exemplary in how to handle this.” — *Former U.S. Sen. Bob Corker (R-Chattanooga) to the Chattanooga Times Free Press after Gov. Bill Lee issued a statewide stay-at-home order for nonessential business. Corker had gained attention last month for suggesting his generation was willing to make “a degree of sacrifice” to get the country back to work and save the economy.*

■ A survey issued by the state Department of Education raised eyebrows by including a question that appeared to suggest officials were considering extending the school year into this summer or the next to make up for lost days. The question disappeared from the survey as teachers and parents raised alarm on social media. A spokeswoman said later the version meant for school superintendents had been inadvertently released.

■ The plaintiffs in a lawsuit seeking to throw out the state’s new school voucher law are asking for the program to be put on hold while the case is adjudicated.

■ The Reform Alliance, an organization founded by rappers **Jay-Z** and **Meek Mill**, donated about 40,000 masks to the Tennessee Department of Correction.

■ Nashville Mayor **John Cooper**, who last week broke a campaign promise by calling for a property tax increase to help bridge a widening budget gap, has asked leaders at the Metro Nashville Public Schools to

start thinking about ways the system could cut \$100 million in expenses from its spending plan.

■ Republican U.S. Senate candidate **Bill Hagerty** announced he had raised \$1.2 million in the first quarter. Campaign finance reports are due on Wednesday.

■ President **Donald Trump’s** son-in-law **Jared Kushner** has been ruffling feathers in Washington since taking a prominent role in efforts to improve coronavirus testing and obtain more medical equipment. Kushner has tasked a group of political appointees he calls his “impact team” — but whom critics deride as the “frat party” or the “Slim Suit Crowd,” according to *The New York Times*. They include **Brad Smith**, the recently appointed director of the innovation center at the Centers for Medicare and Medicaid Services, who was a staffer for **Hagerty** when he was the state commissioner of Economic and Community Development.

■ One of the **Kushner** team’s big coups to date has been orchestrating an airlift of 22 plane-loads of masks, gowns, and other medical gear from China. **Hagerty**, meanwhile, has been issuing a drumbeat of tweets blasting the “Communist Chinese” regime and its responsibility for the “Wuhan coronavirus.”

■ The Knoxville *Compass* reported a coronavirus outbreak at the Y-12 National Security Complex caused the facility to dial back to “mission-critical operations.” The publication cited **Kathryn King**, whom it identified as the facility’s communications director. King followed up to say that wasn’t, in fact, her title. But in keeping with the secret nature of so much that happens around Y-12, King declined to divulge her actual job description. She said the *Compass* could simply identify her as the person who handles media relations.

■ Back when the field of candidates running for the Republican U.S. Senate nomination in 1994 included **Bill Frist**, **Bob Corker**, and four others, the media quickly dubbed them the Six-Pack. If the decision to strike five hopefuls from the slate to succeed Sen. **Lamar Alexander** holds, there will be a cool dozen candidates remaining for the GOP nomination this year.

■ In other words, a 12-Pack. Reporters always like to boil matters down to terms they can easily understand.

■ *The Daily Herald* of Columbia reports Froggy’s Fog, a producer of fog machine fluid for amusement parks, stage productions, concerts, bars, and nightclubs, has switched to making hand sanitizer amid a national shortage due to the coronavirus pandemic.

■ Wait, there is a national fog machine supplier based just 50 miles down the road from the state Capitol? Too bad former House Speaker **Glen Casada** didn’t take advantage of that when he was running the show. If he had just flooded the chamber with fog during the school voucher vote, reporters wouldn’t have been able to keep tabs on his efforts to twist arms to get the bill passed.

■ Though in the aftermath of the messy affair, hand sanitizer might have come in handy, too.